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The Facts—and the Documents

AMERICAN RIGHTS &
BRITISH PRETENSIONS

On the Seas



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AMERICAN RIGHTS &
BRITISH PRETENSIONS

on the SEAS

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*The Facts and the Documents,
Official and Other,
Bearing upon the Present Attitude of Great Britain
toward the Commerce of the United States*

Compiled, with introductory memoranda, by

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The Government of Great Britain has virtually set up in the midst of the busy seas an arbitrary court, claiming unheard-of powers and exercising the most tyrannous police functions; seizing and haling into the dock as suspects all travelers upon the ocean highways, and visiting many of them with heavy penalties for unproven, and indeed unprovable, offenses. This lawless assizes of the seas, contemptuous alike of its own precedents and of the rights of others, scarcely stoops to the pretense of citing authority for its actions, which are determined solely by its brutal will, and enforced, though indeed largely through intimidation, by the gigantic power of its naval police. The extent of the earth's surface over which this extraordinary court is permitted to wield its self-arrogated jurisdiction, the magnitude of the interests which its actions vitally affect, and the supineness with which sovereign States submit to the erection, upon the ruins of their self-respect and the débâcle of their highest commercial and political interests, of an island's municipal statutes into international formulas, unite to render this one of the spectacles of history.

AMERICAN RIGHTS AND BRITISH PRETENSIONS

On the SEAS

I

THE FIRST ENCROACHMENTS

THE people of the United States have spent a great deal of breath in discussing the respective merits and interests of the nations at war in Europe.

Is it not time for us to give our attention seriously to our own interests, as they are affected by the struggle?

It is an easier mental exercise, a more engaging diversion, unquestionably, to follow the fortunes of opposing armies, as displayed in the morning papers day by day, than it is to study the unromantic subject of the treatment which American interests are receiving at the hands of the belligerents. Yet, after all, the question whether Roumania sides with the British Allies or with the Teutons, whether Bulgaria or Servia gets Macedonia, whether Germany retains or gives up Courland, is of slight practical importance to us compared with the question whether the condition of the people of the United States is bettered or worsened by the events of the war.

This volume owes its existence to a belief that it is the business of Americans to guard the interests of America—and if to guard them, then, necessarily, to study them. It aims to afford materials for such study of American interests in at least one aspect—the aspect which, as the months draw on, emerges as perhaps the most anxious object of our concern: the vindication of the right of neutral ships to sail the seas on peaceable errands with innocent cargoes.

Against Germany that right has been vindicated.

It remains to assert it against Great Britain. Less tragic than German attacks upon our rights at sea, the persistent trespasses of the British have not drawn the same strained attention nor aroused the same dramatic passions. Nevertheless, it would be difficult to exaggerate the seriousness of the issue which Great Britain has forced upon us by a course of conduct, which, months ago, and long before it had

reached its present excess of insolence, the United States Government was obliged to characterize as “an almost unqualified denial of the sovereign rights of nations now at peace.” *

Let us get a few principles in mind:

Civilization does not countenance the view that war works a stoppage of the ordinary vocations, or interferes with the ordinary lives, of non-combatants. Commerce is free to flow in its regular channels in war as in peace, subject to two limitations or exceptions only, clearly defined and universally understood. These exceptions are that vessels are forbidden to go through a blockade; and that they are forbidden to carry what is denominated “contraband.”

There are, then, two grounds on which goods may lawfully be stopped on their way to a belligerent:

First, on the ground that they are attempting to run a blockade, which has been formally declared and is being physically maintained against the port to which the goods are consigned.

Second, on the ground that the goods are contraband.

As for goods coming from the country of a belligerent, there is only one good ground on which they may be stopped, namely: the ground that they are attempting to run a blockade.

The subject of blockade will be more fully considered further on; at present it is enough to point out the indisputable fact that international law makes these requirements concerning a blockade, namely: first, that it must be a real blockade; second, that it must be effective; and, third, that it must apply equally to all nations. The United States Government contends that no blockade exists against any German port.

It follows that it is only as contraband, and only when on the way to Germany that

*Note to the British Government, March 30, 1915.

cargoes from America are lawfully liable to interference. Let us remind ourselves what, precisely, "contraband," is.

Contraband goods fall into two distinct classes. Certain articles, which are manifestly intended for warlike uses, are *absolute* contraband. They are subject to capture if shown to be destined to territory of the enemy.

Certain other articles, which may or may not be intended for warlike uses, fall into the category of *conditional* contraband, and the rule of international law regarding it is this: Conditional contraband is subject to seizure by an enemy if it is detected at sea on its way to the army, navy, or official administration of the enemy Government. It is not subject to seizure if consigned to a neutral country or to private citizens of a country at war.

The first issue between the Government of the United States and that of Great Britain lies here. Let us get the facts, then, clearly in mind: It is a firmly established principle of modern international law that articles of conditional contraband, carried in neutral ships, not intended for the use of the army, navy or Government of a belligerent, are not subject to capture or detention at sea. If intended for military use, they are so subject—they are contraband; but if destined for the ordinary use of life in the enemy's country, and not distinctly for the enemy's forces, they are not contraband. It is clear that no question can arise as to the character of goods known as conditional contraband when they are on their way to a neutral port; in that case they are innocent.

There is nothing particularly abstruse in the subjects of blockade and contraband. They are two subjects upon which international law has really reached clear conclusions. On Feb. 26, 1909, an international conference in session in London promulgated what has become known as the *Declaration of London Relative to the Laws of Naval Warfare*. The provisions of this declaration were the result of long study on the part of experts in international law and practice; they represent the result of a careful weighing of the interest of belligerents on the one side and of neutral countries on the other side during the prevalence of war. On the above date the Declaration of London received the signatures of all the Powers represented in the conference, namely: The United States, Great Britain, France, Russia, Japan, Germany, Austria-Hungary, Italy, Spain and Holland. It is true that it has never received formal ratification at the hands of the Powers; its authority consists alone in the fact that it represents the attested and conceded consensus of expert opinion established by accredited representatives of the world's

Powers, and stands as the fullest and latest statement of the principles of international law on the subject.

The principles set forth above are those which the signatories of the Declaration of London declared to be the understood and accepted law of nations with respect of blockade and contraband.

Such being the principles and the laws governing maritime affairs in time of war, how has the practice of the British Government conformed to them?

The long series of abuses and outrages inflicted upon American commerce by the Government of Great Britain may perhaps be summarized under the following heads:

I. Neutral merchantmen carrying innocent merchandise *from American to German ports, or from German to American ports*, are forbidden to proceed on their voyages. Any neutral ship attempting to proceed from an American to a German port, or from a German to an American port, will be taken to a British port, where the cargo **will be discharged and handed over to the marshal of the Prize Court.** As a matter of fact, no ships now attempt to pass between Germany and America. And, yet, under all accepted rules of international law, neutral ships have a perfect right to proceed to German ports or to come out from German ports save such as are specifically blockaded. There is no blockade of any German port. (See, however, page 13, ff.)

II. American and other neutral vessels on their way between American ports and other *neutral* ports are forced to call at British ports, there to be examined and often to discharge their cargoes.

International law allows the right of visit and search at sea, but it does not contemplate the dragging of merchantmen into ports out of the line of their voyage and their detention there for days, weeks or months, at all sorts of inconvenience and loss.

III. Shipments of American goods of ordinary character heretofore recognized as strictly peaceable and legitimate, on their way from American to *neutral* ports, are habitually seized by Great Britain, being forcibly removed from American and other neutral ships.

Under all recognized international law, Americans have a perfect right to ship absolutely *anything they please* to neutral ports, and no belligerent has a right to touch them. But especially is it an intolerable outrage for England to stop American shipments of such innocent goods as food-stuffs and clothing stuffs on their way to Norway, Sweden, Denmark and the Netherlands—countries with which we have a perfect right to trade without consulting Great Britain.

IV. No goods of German ownership or origin are suffered to be shipped *from any neutral* port to America. Neutral merchantmen on their way to the United States are hauled into British ports and ransacked for goods bought in Germany by American merchants for use in American manufactures or for American consumption.

We are not only forbidden to sell our products to Germany and Austria, but we are denied the right to procure the necessities and comforts for which we look to Germany and Austria.

V. Great Britain not only interdicts us from selling our products to Germany and Austria, but she forbids our selling to any of the neutral countries more than a certain quantity of a product. Thus she has the assurance to notify us that we may sell Norse countries only a limited amount of cotton. Great Britain constantly declares that our increased exports to neutral countries (which have hitherto been able to buy of the countries now too busy in war to manufacture) is suspicious. So Great Britain confiscates our products on the way to our customers—and there proceeds to sell them herself at a profit for herself.

VI. Great Britain refuses to recognize the registry awarded by the Government of the United States to ships purchased by American citizens, in good faith, for the sole purpose of relieving the distresses of our commerce.

VII. American merchantmen which are suspected by the British government to be owned by persons whose nationality is offensive to it are seized and dragged to British ports. One such ship, a native American, proceeding without cargo of any kind, between the ports of New York and Norfolk, Virginia, was captured within gun-shot of our coast and taken, a prize, into Halifax.

VIII. Thus the insolence of unrebuked naval power has been extended to our own waters, and British cruisers hover on our coasts and lie at the entrance of our harbors. There they wait to capture, and often do capture, innocent merchantmen suspected of carrying some of the articles included in the almost all-embracing British list of contraband. There they overhual passengers and require passports from American citizens still within sight of their own land. There they seize American vessels on one pretext or another and carry them off to a British prize court.

IX. All this *direct* interference with American ships and American goods is not enough. It is supplemented by a series of ingenious devices craftily calculated by Great Britain to carry still further the work of destruction wrought upon our commerce. These devices are innumerable, and many of them are most adroitly concealed, but

illustrations of their character are to be found in:

1. The exercise of intimidating arguments designed (successfully) to prevent the American Government's meeting the critical national necessity of an American merchant marine;

2. The intimidation (at first by the hand of its ally, France) of American enterprise in the legitimate purchase of mercantile vessels to ply the seas under the protection of the American Flag;

3. A group of trade agreements enforced upon the rubber, textile, tin and other industries of America—agreements under which American manufacturers are allowed to import raw materials only under a British license carrying heavy conditions and involving severe hardships;

4. Agreements, like those enforced upon exporters in many trades, in which American producers, in order to dispose of their goods, must agree not to sell to others than those living in British and Allied countries, except on permit from the British Admiralty.

5. The enforcement of a censorship of absurd severity over commercial cablegrams between the United States and the rest of the world, involving the suppression of communication between American merchants and their foreign customers, and between foreign merchants and their American customers, and the appropriation and dishonest use of intelligence passing between American and foreign business houses.

The chronology of the British war on American commerce is easy to master—the principal dates to learn are but three: August 20, October 29, 1914, and March 11, 1915. These are dates of three Orders in Council—for it is by the same method and in the same form as that which outraged our forefathers and finally provoked them to the War of 1812 that England to-day is closing the sea to our commerce.

The Order in Council of August 20 declared it to be the intention of the British Government to act during the present hostilities in accordance with the provisions of the Declaration of London, subject to some additions and modifications. A glance at the additions and modifications which this order and that of October 29 then proceed to make reveals the fact that the pretense that the British Government is observing the Declaration of London would be much like the claim of a man who professed that he was carefully observing the commandments of Moses, subject to the striking out of the *nots*. The additions and modifications which the British Government has placed upon the Declaration of London are of such a character that they obliterate the Declaration.

The Declaration of London, in Articles XXII., XXIV., and XXVIII., established a list of absolute contraband, another of conditional contraband, and another of merchandise not contraband. These lists Great Britain has revised beyond any possible recognition. The catalogue of absolute contraband has been enormously expanded, and practically everything else has been marked down as conditional contraband. The free list has disappeared. And this in defiance of the rule of the Declaration itself, and of the well-understood principle of international law, and especially of the century-long contention of the United States, that it is vital to the legitimate commerce of neutral States that there should be, as Mr. Hay when Secretary of State put it, no deviation from the rule which determines what is and what is not lawfully subject to belligerent capture, namely: warlike nature, use, and destination.

But even more vital is the modification which the British Order in Council makes in the sense of Articles XXXIII. and XXXV. of the Declaration of London.

The former article declares that there can be no question of conditional contraband except in cases where the cargo is destined for the use of the administrative departments, or the military or naval force of the enemy. Under the latter article there can be no question of conditional contraband on vessels sailing for a neutral port.

The British Government announced that it would regard articles of conditional contraband consigned to "merchants or other persons under the control of the authorities of the enemy" in the same light as if they were consigned directly to the military forces of the enemy. This means nothing else than that provisions, for instance, on the way to a German port, consigned to a private importer and intended for no other use than the consumption by the peaceful population in the ordinary way of life, are subject to capture by British ships—because all the inhabitants of the country are under the control of the authorities. Not only so, but the same harmless cargoes on the way to Danish, Dutch, or Norwegian ports are likewise subject to capture—because it may suit the purposes of the British Government to suspect any importer, anywhere, of being "under the control" of German authorities. In other words, American farmers, cattle-raisers, and pork-packers are today, by British edict, denied the right to sell and deliver their products to the peaceful populations of the countries with which Great Britain happens to be at war, and of the countries which she suspects sympathize with them.

A year ago, when the above sentence was first written, it seemed a thing impossible that Britain would be permitted to forbid

our selling the products of our farms to whom we would. She has been permitted to do it for a year, and the shock of the thing has passed. Yet surely, even though it has been endured for a year, it cannot be the settled policy of the people of the United States to submit to so intolerable an oppression.

There is too long a record of American insistence on the right to sell and ship food to civilian populations anywhere in peace or war. Something like the following has been our historic attitude:

In 1795 the British Government, being then at war with France, by an Order in Council directed the seizure of all vessels laden with provisions bound for French ports. The Government of the United States protested against this action. It secured the appointment in 1795 of a Mixed Commission for the purpose of awarding damages by reason of illegal captures and condemnations by the British. This commission held that the action of the British in holding up provisions on the way to French ports, but not specifically intended for the French army and navy, was illegal, and awarded large damages.

The language of Thomas Jefferson, Secretary of State of the United States, in instructing Mr. Pinckney, our Minister in London, Sept. 7, 1793, represents the position which this Government has ever since consistently maintained:

When two nations go to war, those who choose to live in peace retain their natural right to pursue their agriculture, manufactures, and other ordinary vocations, to carry the produce of their industry for exchange to all nations, belligerent or neutral, as usual.

Mr. Jefferson contended that the fact that Great Britain and France were at war afforded neither of them the right to interrupt the agriculture and commerce of the United States. Such interruption tended directly to draw us from the state of peace in which we wished to remain. Mr. Jefferson instructed Mr. Pinckney that the United States Government could not allow itself to be forced either to withhold provisions from France, (thus making ourselves a party to the war), or to withhold them from both France and her enemies, (thus closing to our farmers, manufacturers, and shippers all the ports of Europe). He admitted that Great Britain might "feel the desire of starving an enemy nation, but she can have no right of doing it at our loss, nor of making us the instrument of it."

Edmund Randolph, Secretary of State, on May 6, 1794, instructed Mr. Jay, who had gone on a special mission to England in connection with the subject, that "provisions, except in the instance of a siege,

blockade, or investment, are not to be ranked among contraband."

After 1795 the Government of Great Britain did not, for 119 years, undertake to assert that provisions destined elsewhere than to the government, army or navy of a belligerent were contraband. Indeed, until the year 1914, it consistently maintained the opposite position.

In the year 1885, France, being in a state of hostility with China, declared shipments of rice destined to any ports in Northern China to be contraband. The pretension was resisted by Great Britain, on the ground that though provisions may, in particular instances, acquire a contraband character, they cannot in general be so treated. Lord Granville, British Minister of Foreign Affairs, in a note to M. Waddington, Feb. 27, 1885, replied to the French contention that the British Government could not admit it.

The United States Minister at Berlin, Mr. Kasson, wrote to Mr. Bayard, Secretary of State, April 23, 1885, relative to the discussion then going on in Europe over the French declaration making rice contraband. Mr. Kasson said:

I beg your attention to the importance of the principle involved in this declaration, as it concerns our American interests. We are neutrals in European wars. Food constitutes an immense portion of our exports. Every European war produces an increased demand for these supplies from neutral countries. The French doctrine declares them contraband, not only when destined directly for military consumption, but when going in the ordinary course of trade as food for the civil population of the belligerent Government. If food can be thus excluded and captured, still more can clothing, the instruments of industry, and all less vital supplies be cut off, on the ground that they tend to support the efforts of the belligerent nation. Indeed, the real principle involved goes to this extent, that everything the want of which will increase the distress of the civil population of the belligerent country may be declared contraband of war.

The entire trade of neutrals with belligerents may thus be destroyed, irrespective of an effective blockade of ports. War itself would become more fatal to neutral States than to belligerent interests.

The rule of feudal times, the starvation of beleaguered and fortified towns, might be extended to an entire population of an open country. It is a return to barbaric habits of war.

During the Boer war, question having arisen as to the position of the British Government with regard to dispatch of provisions to South Africa, Lord Salisbury, then head of the Government, (Jan. 10, 1900,) thus defined it:

Foodstuffs with a hostile destination can be considered contraband of war only if they are supplies for the enemy's forces. It is not sufficient that they are capable of being so used; it must be shown that this was in fact their destination at the time of the seizure.

During the Russo-Japanese war the Russian government undertook to put foodstuffs on the contraband list. The British Government protested, and the American Government declared its total inability to acquiesce in the Russian position.

Lord Lansdowne, British Minister of Foreign Affairs, on June 11, 1904, instructed Sir C. Hardinge, British Ambassador at St. Petersburg, that his Government observed "with great concern that rice and provisions will be treated as unconditional contraband, a step which they regard as inconsistent with the law and practice of nations."

The United States Government was especially emphatic in its refusal to admit the Russian contention. The steamship *Arabia*, bound for Japanese ports and laden with railway material and flour, consigned to private commercial houses, was seized by the Russians and taken to Vladivostok. A prize court held that the *Arabia's* cargo should be confiscated. In the course of a remarkable letter of instruction sent to Mr. McCormick, our Ambassador at St. Petersburg, on Aug. 30, 1904, Mr. Hay made use of the following language:

When war exists between powerful States it is vital to the legitimate maritime commerce of neutral States that there be no relaxation of the rule—no deviation from the criterion for determining what constitutes contraband of war, lawfully subject to belligerent capture, namely: Warlike nature, use and destination. Articles which, like arms and ammunition, are by their nature of self-evident warlike use, are contraband of war if destined to enemy territory; but articles which, like coal, cotton, and provisions, though ordinarily innocent are capable of warlike use, are not subject to capture and confiscation unless shown by evidence to be actually destined for the military or naval forces of a belligerent.

This substantive principle of the law of nations cannot be overridden by technical rule of the Prize Court that the owners of the captured cargo must prove that no part of it may eventually come to the hands of the enemy forces. The proof is of an impossible nature; and it cannot be admitted that the absence of proof in its nature impossible to make can justify the seizure and condemnation. If it were otherwise, all neutral commerce with the people of a belligerent State would be impossible; the innocent would suffer inevitable condemnation with the guilty. . . .

If the principle which appears to have been declared by the *Vladivostok Prize Court* and which has not so far been disavowed or explained by his Imperial Majesty's Government is acquiesced in it means, if carried into full execution, the complete destruction of all neutral commerce with the non-combatant population of Japan; it obviates the necessity of blockades; it renders meaningless the principle of the Declaration of Paris set forth in the Imperial Order of Feb. 29 last that a blockade in order to be obligatory must be effective; it obliterates all distinction between commerce in contraband and non-contraband goods, and is in effect a declaration of war against commerce of every description between the people of a neutral and those of a belligerent State.

II

THE SUMMIT OF ARROGANCE

GREAT BRITAIN does not, however, now limit herself to "war against commerce of every description between the people of a neutral and those of a belligerent State"; she has gone on to declare war against commerce of every description between the people of neutral States among themselves. It is no longer the complaint of American exporters merely that they may not sell innocent goods to the noncombatants of Germany; that outrage has taken its place as only a minor feature of the campaign of which our trade-rights are the victim, a campaign which has reached the length of forbidding our selling to or buying from any European country except under British supervision and with British permission in the case of each and every shipment of goods.

The first steps in the hostilities against us were those considered above, namely: the extension of the definition of contraband to include practically all articles of commerce; and the presumption of a hostile destination in all cases. Within a few months after the beginning of the war—on November 2, 1914—England closed the English channel to navigation, planting mines in the seas north of the British Isles and notifying the world that entrance into those waters was hazardous. The effect of this was to compel trans-Atlantic vessels to take the northern route and to put into a British port to secure a British pilot—and submit to British examination.

On March 11, 1915, there issued an Order in Council which the calmest and most well-considered judgment can only describe as probably the most insolent public document of modern times.

On March 11, 1915, His British Majesty, by and with the advice of His Privy Council, was pleased to order and did order that "No merchant vessel which sailed from her port of departure after the first of March, 1915, shall be allowed to proceed on her voyage to any German port.

"No merchant vessel which sailed from any German port after the first of March, 1915, shall be allowed to proceed on her voyage with any goods on board laden at such port.

"Every merchant vessel which sailed from a port other than a German port after the

first of March, 1915, having on board goods which are of enemy origin or are enemy property, may be required to discharge such goods in a British or allied port."

Is it possible that the people of the United States understand these words and what they mean? Is it possible that they understand that during many months the power of Great Britain has forbidden a merchant vessel passing between America and Germany under any circumstances, or its passing between America and any port on the continent of Europe except by British permission and after British examination? Can the American people be aware that Great Britain refuses to allow, and for many months has not allowed, an article suspected to be owned by a German, or to have originated on German, Austrian, or Belgian soil, to cross the Atlantic Ocean? Are we really aware, do we understand, that for months every ship going and coming between American ports and neutral European ports has been stopped and examined by the British naval constabulary and either held or unloaded or given a British license to continue her voyage? Have we apprehended the meaning of the language which, on the publication of the March 11th Order in Council, our own Government addressed to the British Government, namely, that "it would constitute, were its provisions actually to be carried into effect as they stand, a practical assertion of unlimited belligerent rights over neutral commerce within the whole European area, and an almost unqualified denial of the sovereign rights of the nations now at peace?" And can we then be indifferent to the fact that for months those provisions have been actually in effect; that for months England has been practicing "an almost unqualified denial of the sovereign rights" of the United States?

Today the American Government is unable to assure merchant ships flying the American flag that they may cross the Atlantic to any port except by permission of the British Admiralty. To-day an Iowa farmer or a Texas cattle-raiser is forbidden, by the English Government, to sell his products to European customers whose families need food. Not a barrel of flour nor a ham can be landed in Rotterdam or

Copenhagen without England's permission—which is unobtainable. Not a bale of cotton can be shipped except on the same terms. Not a case of medicines nor a box of Christmas toys, much desired by our people, can be obtained—for it is more important that England should punish the chemists of Elberfeld and the toy-makers of Nuremberg than that American hospitals should get medicines and American children have a merry Christmas. So there lie piled up on the wharves of Rotterdam and Copenhagen and Malmoe, mountains of boxes of goods for which we are anxious to trade our own products, but which England forbids the ships to touch, because they are "goods of enemy origin."

The British position is that Germany has committed illegitimate acts, and that this gives England "an unquestioned right of retaliation." Whether or not it is becoming to England to use the illegal acts of her enemy to excuse unlawful acts of her own, even in respect of the enemy, it can hardly be claimed that the retaliation should be visited upon the United States, an innocent neutral. England is assumed to be the enemy of Germany, not of the farmers, planters and merchants of the United States, but it is the merest statement of fact to say that thousands of the citizens of the United States are being interfered with in the ordinary pursuit of their livelihood, not to say in the enjoyment of the ordinary comforts of life—and unnecessarily interfered with—by the economic war which Great Britain is waging upon the United States under the excuse of its war with Germany.

It was only after considerable hesitation that the British Government allowed itself to use the word "blockade" in describing the measures it had put in hand March 11th to stop commerce with Germany. It is not a physical fact. It does not apply alike to all countries; Sweden, Norway and Denmark are freely trading with German ports in the Baltic, access to which the British deny us. It forbids access to neutral ports. It is not maintained by ships; the fact is the British navy is, most of it, safe in harbor, while the so-called "blockade" is enforced, so far as it is physically enforced, largely by mines.

How tremendous a departure from all known and accepted principles of international law is this new long-distance paper blockade! Historically, the theory of blockade by sea is closely connected with that of siege by land. The original theory of the blockade was that it was intended to reduce a seaside fort by means of investment on all sides. It was often questioned (for instance, by perhaps the greatest American jurist, John Marshall, afterwards Chief Justice, then Secretary of State, in an instruction, September 30, 1800, to Mr. King, American Minister in London), whether the

rule of blockade could be applied to a port "not completely invested by land, as well as by sea." Mr. Marshall was convinced that the extension of the doctrine to towns invested by sea alone was "an unjustifiable encroachment on the rights of neutrals."

Even though the principle of sea blockade independent of siege by land did establish itself, certain specified requirements have always been insisted upon. Among these are the following—the particular form of statement being that given by Prof. T. A. Walker, of Cambridge University. [Manual International Law, III, 77, 78.]

I. A Blockade to be Binding Must be Real.

It is legally essential that there be a blockade in fact. A mere proclamation of blockade unsupported by the presence of an actual blockading force, i. e., a "paper blockade," is in no way binding upon a neutral.

II. A Blockade to be Binding Must be Effective.

The presence of an adequate force is an absolutely essential condition for a valid blockade. The powers of the Armed Neutrality required for the validity of a blockade that it should be maintained by vessel "anchored and sufficiently near" to make the attempt to enter manifestly dangerous . . .

It may be convenient to have brought together at this point some of the pertinent authorities on the subject. The rules of the Declaration of Paris and of the Declaration of London are given later, under the heading "Official Documents." The quotations below are from Secretaries of State of the United States:

To guard against the abusive extension of the term "blockade," it will be necessary explicitly to describe its meaning, and to confine it as in the declaration of the Armed Neutrality, "to a port where, by the disposition of a Power which attacks it, with vessels stationed sufficiently near, there would be evident danger to enter it." [Mr. Pickens, Secretary of State, to Mr. King, Minister to England, June 8, 1796.]

The law of nations requires, to constitute a blockade, that there should be the presence and position of a force rendering access to the prohibited place manifestly difficult and dangerous. Every jurist of reputation, who treats with precision on this branch of the laws of nations, refers to an actual and particular blockade. [Mr. Madison, Secretary of State, to Mr. Thornton, October 27, 1803.]

No maxim of the law of nations is better established than that a blockade should be confined to particular ports, and that an adequate force shall be stationed at each to support it. The force should be stationary, and not a cruising squadron, and placed so near the entrance of the harbor or mouth of the river as to make it evidently dangerous for a vessel to enter. [Mr. Monroe, Secretary of State, to Mr. de Onis, Spanish Minister, March 20, 1816.]

The fictitious blockades proclaimed by Great Britain and made a pretext for violating the commerce of neutral nations have been one of the greatest abuses ever committed on the high seas. During the late war they were carried to an extravagance which would have been ridiculous, if in their effects they had not afflicted such serious and extensive injuries on neutral nations. Ports were proclaimed in a state of blockade previous to the arrival of any force at them, were considered in that state without regard to intimations of the presence of the blockading force; . . . the British cruisers during the whole time seizing every vessel bound to such ports, at whatever distance from them. [Mr. Madison, Secretary of State, to Mr. Monroe, Minister to England, January 5, 1804.]

The British Government in defending its long-distance blockade has made reference to

precedents set by the American Government, especially to the *Springbok* case and the *Peterhoff* case. But a study of these cases [5 Wallace, 1, and 5 Wallace, 28] will clearly show that in neither of these instances the decision of our courts provides any support for the present British contention.

The *Peterhoff*—to take the time for but one instance—was a British vessel which, during the Civil War, cleared with a cargo for the Mexican port of Matamoras, just across the Rio Grande from Brownsville, Texas—then occupied by Confederate troops. The vessel was taken by United States authorities, but the court's decision held that "the ship and cargo are free from liability for violation of blockade." The temptation to include in the blockade our navy was conducting the little Mexican port across from the Confederate camp at Brownsville was surely no less than the desire to include in the present British blockade all the great city ports of neutral Europe. But the United States court resisted that temptation. It said:

It must be premised that no paper or constructive blockade is allowed by international law. When such blockades have been attempted by other nations, the United States have ever protested against them and denied their validity. * * *

We must say, therefore, that trade between London and Matamoras, even with intent to supply, from Matamoras, goods to Texas, violated no blockade, and cannot be declared unlawful.

Trade with a neutral port in immediate proximity to the territory of one belligerent, is certainly very inconvenient to the other. Such trade, with unrestricted inland commerce between such a port and the enemy's territory, impairs undoubtedly, and very seriously impairs, the value of a blockade of the enemy's coast. But in cases such as that now in judgment, we administer the public law of nations, and are not at liberty to inquire what is for the particular advantage or disadvantage of our own or another country. We must follow the lights of reason and the lessons of the masters of international jurisprudence.

Much in contrast with this sober, law-revering reasoning is the position assumed by the British Government today. In its note of July 24th, Sir Edward Grey says: "A blockade limited to enemy ports only would leave open routes by which every kind of German commerce could pass almost as easily as through the ports in her own territory." It is therefore absurd, is the English conclusion, to say that they may not close those neutral routes. "If the blockade can only become effective by extending it to enemy commerce passing through neutral ports, such an extension is defensible."

As a rule, goods which are of German ownership or origin are refused shipment from neutral ports, but in some instances such goods have been accepted by ship-masters and have started on their voyage to America, only to be seized by British authorities. What are the rights in such cases?

The question whether goods which are

the private property of citizens of a belligerent country may be seized at sea, if on board a neutral vessel, cannot be regarded as decisively settled. In early times the private possessions of citizens of an enemy country were regarded as good spoil wherever found. Nowadays, it is unpermissible for a belligerent to seize private property of citizens of the enemy country, when found on land. With regard to private property of citizens of an enemy country, found at sea, the law is not quite so clear. While there would seem to be no difference in the inviolability of private property by land and by sea, practically the international conscience cannot be said to have advanced to the point where there is absolute unanimity that enemy goods must be respected, if they can be captured on the water. The doctrine "free ships, free goods," has always been popular in America, but, as a matter of fact, we can hardly rest upon it as an accepted axiom of international law or practice. Indeed, our own courts, except in cases where definite treaties prescribe a different rule, have with practical uniformity upheld the seizure of enemy property, if contraband, even when sailing under a neutral flag. True, a score of our treaties with foreign Powers recognize the principle "free ships, free goods." We have no treaty with Great Britain in which either party recognizes the principle. However, both the Declaration of Paris and the Declaration of London hold that privately owned property is inviolable at sea.

Of course, goods once the possession of an enemy, but which have been sold to citizens of a neutral state in the ordinary ways of trade and in good faith, are exempt from capture or interference.

As for goods of origin in belligerent territory, precedents and opinions are contradictory; it cannot be averred that there was any clearly predominant decision up to 1909, when the London Conference declared against the seizure of property at sea on the ground that it was the product of the enemy's soil. During the present war, the British Government has stopped shipments from Belgium, as "goods of enemy origin," the local government of Belgium being today administered by Germans. Thus, while we are exhorted to contribute, and have contributed many thousands of dollars for the relief of Belgian distress, we are not permitted, by Great Britain, to offer the most practical form of relief, namely, by the purchase of Belgian goods.

It is of course apparent that, once the principle of the long-distance blockade is asserted, the mere matter of miles ceases to be of any consequence at all. If England is free to close the whole coast of Europe by a constructive blockade somewhere out at sea, there is no impropriety in her station-

ing cruisers at the mouth of New York harbor, the Delaware capes and Hampton Roads, to seize contraband—whatever she pleases being “contraband.” The United States Government early in the war made representations to Great Britain that the presence of war vessels in the vicinity of New York harbor was offensive, and the cruisers were for a while withdrawn. But they were soon busy again on our coast, and now were not satisfied merely to waylay or capture vessels starting on the Atlantic voyage.

On October 26th, the Dutch steamer *Ham-born*, on the way from New York to Cabair-en, Cuba, for bananas for the American market, was captured by a British cruiser and taken to Halifax as a prize.

A few days later, we found that the voyage from New York to Norfolk, Virginia, had become dangerous. For more than a year American ships bound to foreign neutral ports had constantly been seized and their cargoes taken off for England's benefit. But our ships still retained the proud privilege of travelling without molestation between our own home ports.

On October 30th, the British Government took away this privilege. On that day one of the British blockading cruisers off Sandy Hook captured the steamship *Hocking*, an American vessel, flying the American flag, owned by Americans, steaming between two American ports. She had, and could have had, no contraband on board, for nothing can be contraband passing between two American ports. But, as a matter of fact, she was in ballast, without a pound of cargo in her. The cruiser put an armed prize crew on board the *Hocking*, hauled down the American flag, ran up the Union Jack, and took the prize into Halifax, where she will lie for months, and almost certainly be confiscated on the ground (which is positively denied), that German capital is invested in her.

If this ship was not safe, no American coast-wise trading ship is safe. However, up to the present time, American vessels are permitted to navigate the Great Lakes and the Hudson River. On Nov. 11th, the *Vinland*, of Danish registry, but on the way from New York to Norfolk, was chased by the British blockaders after leaving Sandy Hook, but escaped by running close inshore and creeping in thick weather down the coast.

Thus far no vessel has been pursued into a port of the United States, though the *Zealandia*, an American steamship, was, on Nov. 5th, while anchored off Progresso, Mexico, at the usual discharging place (there being

no ship-landing at Progresso), within the 3-mile limit, boarded and searched by an armed party from the British cruiser *Iris*.

However, it is not the purpose to go, at this point, into details concerning captured ships; another chapter will do that. Other chapters will take up for more extended discussion particular features of the British campaign against neutral commerce, such as the interference, through iron-clad trade agreements, in our domestic business; the cable censorship, ably used as an aid to the demoralization already wrought by the censorship of cargoes; the blacklisting of many specified ships in the neutral trade, etc., etc.

All these devices for the injury of rival trade, outrageous as they are, are only outgrowths of the central iniquity which makes them possible—England's violation of the neutrality of the sea. No indictment could be more complete than that which the facts cited, though incompletely, in this book, bring against the King and his Council and the Admiralty of England as the contemner of international law and the enemy of the rights of nations at peace. No one can peruse the cases set down in detail in later pages of this book without astonishment at the height to which British pretensions have been allowed to mount. The Government of Great Britain has virtually set up in the midst of the busy seas an arbitrary court, claiming unheard of powers and exercising the most tyrannous police functions; seizing and haling into the dock, as suspects, all travellers upon the ocean highways, and visiting many of them with heavy penalties for unproven, and indeed unprovable, offenses. This lawless assizes of the seas, contemptuous alike of its own precedents and of the rights of others, scarcely stoops to the pretense of citing authority for its actions, which are determined solely by its brutal will, and enforced, though indeed largely through intimidation, by the gigantic power of its naval police. The extent of the earth's surface over which this extraordinary court is permitted to wield its self-arrogated jurisdiction, the magnitude of the interests which its actions vitally affect, and the supineness with which sovereign States submit to the erection, upon the ruins of their self-respect and the débâcle of their highest commercial and political interests, of an island's municipal statutes into international formulas, unite to render this one of the spectacles of history.

A contemplation of that spectacle suggests that the hour imposes upon the United State a duty of supreme historical importance.

III

SHIPS AND CARGOES STOPPED AT SEA

AMERICAN manufacturers and exporters to-day are unable, because of British interference on the high seas, to send goods direct to customers in any neutral, non-belligerent European country. Deliveries of goods to such nations can be effected only after the cargoes of vessels have been examined by British authorities in such ports as Kirkwall, Leith, Shields, Hull or Liverpool, to which all vessels—American, Dutch, Norwegian and Swedish—are forcibly diverted, at a great financial loss. Even then, the continuance of a ship's voyage and the delivery of consignments are uncertain, because, on the mere suspicion that goods may be resold to Germany or her allies, cargoes are often discharged and held for Prize Court proceedings. American exporters are obliged to suffer losses in the deterioration of perishable goods, in the charter cost and operating expenses of ships detained, and in, what is more serious, the destruction of business relations enjoyed for years with foreign customers. In consequence of British rulings certain goods, such as rubber, wool and tin, manufactured in the United States, cannot now be sold to customers in Norway, Sweden, Holland, Denmark, or any neutral country, except through British brokers, located in London. These brokers charge a commission on sales thus made. American goods thus sold, must be shipped *via* England, which necessitates great expenses in loading, reloading and in warehouse tolls.

Shut off from direct relations with their legitimate customers, American merchants are thus rendered helpless in the disposition of goods and the establishment of prices. Thus American business abroad, fostered and developed for years at great expense, has been usurped by British interests which can themselves, under present conditions, without hindrance or competition, supplant American manufacturers.

Every American enterprise engaged in foreign trade has suffered from Great Britain's maritime policy. Even trade with South American countries has been interfered with and damaged. The loss inflicted has fallen upon manufacturers, importers, exporters and ship-owners. No class of goods has been exempt from British detention and seizure. The mere suspicion on the

part of any British authority engaged in the examination of ships is sufficient for the holding of a cargo for Prize Court proceedings.

According to the basic principle of English common law, which places the burden of proof upon the accuser, and by the Declaration of London, which presumes that all cargoes are innocent of an enemy destination until proven guilty, the policy pursued by Great Britain is illegal and in violation of the established rights of neutral nations. Reversing these principles, Great Britain first assumes that all cargoes are suspect, and acts accordingly. Thus, any and all ships may be held and cargoes seized. American shippers are asked to guarantee that goods sent to Norway, Sweden, Denmark and Holland will not be re-sold by their purchasers to Germany or her allies. By what right can Great Britain ask this of American merchants? How can such guarantee be logically given? The captain of any British patrol boat, hailing and taking into port an American, Norwegian, Danish or Dutch boat, at his discretion may assume that the cargoes may be re-sold to Germany. The American shipper, as well as his customers, has no recourse from long detention, actual seizure and Prize Court proceedings. Vessels are often brought into Kirkwall and other British ports even after the cargoes had been examined by representatives of British consuls at American ports and the holds officially sealed before the ship set sail. Whether the cargo be seized or the vessel allowed to proceed, a financial loss is inflicted upon exporters and ship charterers.

Realizing their helplessness under the monopoly exercised by Great Britain upon the sea, regular lines, like the Scandinavian-American and Norwegian-American, voluntarily call at Kirkwall for inspection. Other lines using the English channel, such as the Holland-American Line, stop at the Downs. The mere deflection from their regular course of voyage means an expense in the burning of coal and in delay. If her papers are deemed beyond criticism or suspicion by the British officer examining the cargo and the vessel is allowed to proceed, there is a delay of at least forty-eight hours. In most cases ships are detained several

days. In other cases the period which they are held has ranged from one to six months. The damage inflicted, and the gross injustice of such detention upon the mere suspicion of some petty examining official, are obvious.

Vessels of lighter tonnage pay a charter fee averaging from \$400 to \$500 a day. Larger vessels pay from \$1,400 to \$1,500 a day. The charter cost for a trip may average about \$45,000 to \$50,000. Each day's detention in a British port means so much loss, which is, of course, not paid by the British Government, but must be deducted from the profit on the cargo should that cargo have the good fortune to be passed and finally reach its destination.

To illustrate the working out of the conditions generally explained, certain specific cases may be cited. These are to be regarded as illustrations merely, as it would be impossible to furnish a full list of ships detained and cargoes held:

The steamship *Edward Pierce*, owned by an American concern and flying the American flag, sailed November 25, 1914, from New York for Copenhagen and Gothenburg. This vessel was detained at Falmouth from December 8 to December 13, the master being told that consignments of flour and peas were suspected, although these had been sold direct to parties in Copenhagen. The vessel was finally permitted to proceed, the loss in charter fees during the delay—on mere suspicion—amounting, according to the owners, to \$7,000. The steamship *George Hawley*, owned by the same concern, sailed from New York, November 15, 1914, for Copenhagen. This ship was held at Falmouth. The master was informed by the custom officers that they were compelled to detain the ship on account of flour, wheat and oil on board. They later informed the master that the British government suspected the destination of 550 barrels of oil. On January 1, 1915, the master was directed to proceed on his course, with the full cargo. The satisfaction of British suspicion in this case, requiring a delay of thirty-three days, cost the owners \$14,000 in charter fees and other expenses.

On February 9, 1915, the steamship *Antilla*, American, sailed from New York for Malmoe and Copenhagen. The ship was stopped February 24 by a British cruiser and ordered to proceed to Kirkwall with a prize crew on board. The ship was taken to Dundee on March 23. The cargo aboard this vessel had been loaded under the inspection of watchmen appointed by the British Consul in New York, and all of the ship's manifests had been certified and signed by the British Consul before the ship sailed. Despite this fact, and the presentation of the British consul's certificate, the ship's papers

were seized by the Admiralty authorities at Dundee, and part of the cargo, consisting of machinery, hardware, graphite and food-stuffs, was discharged. The vessel itself was held until April 27, when it was allowed to proceed with only the remainder of the cargo. The damage in this case, according to the owners, amounted to \$98,000.

On April 6, 1915, an officer from the British cruiser *Teutonic* boarded the American ship, *Joseph W. Fordney*, sailing from New York to Malmoe, when the ship was four miles off the Norwegian coast but inside the headlands of Norway. Despite the fact that the captain showed that the hatches of the ship had been closed under the supervision of the British consul at New York with the consular seal, a prize crew was sent aboard and the vessel was ordered to Kirkwall, where customs officers seized all the ship's papers. The vessel was ordered to Dalton Bay and thence to Portishead, where it arrived April 27. There the cargo was arbitrarily ordered to discharge, without explanation, and the vessel was released, sailing for New York on May 17.

These are only isolated and typical illustrations of Great Britain's treatment of American ships carrying American goods. Even in cases where cargoes are allowed to proceed, the expenses incurred by British interference often wipe out any chance of profit. The loss in charter fees and operating expenses of ships are repeatedly increased by the capricious orders of British officials. Often ships ordered to Kirkwall are not examined there and the matter settled, but are compelled to proceed to Leith, Newcastle, Hartlepool or Middlesbrough, and are sometimes thus sent from port to port, only in the end to have the cargo seized for Prize Court proceedings. These delays occupy periods ranging from several days to many months. The steamship *Carolyn*, American, for instance, sailed from Savannah, Ga., March 30, 1915, with a cargo of cotton for Rotterdam. The ship put into Kirkwall for inspection on April 28. It was then ordered to Leith, where the cargo was detained. The ship was discharged only on May 21, the delay in this case covering a period of twenty-three days.

Another instance of great expense brought upon American shippers may be found in the case of the steamship *Leelanaw*, American, which sailed from New York May 17, 1915, for Gothenburg, Sweden, carrying a cargo of cotton for Russia valued at \$400,000. This ship was captured May 31 by the British cruiser *Mantua* and detained at Kirkwall from June 2 to July 6, a period exceeding one month. Because the British authorities suspected that the cotton might not go into Russia from Sweden, clearance to Gothenburg was refused and the vessel was

forced to deviate its course to Archangel. The shipper thereby suffered great loss by the delay and deviation, in charter cost, operating expenses, war risk and maritime insurance.

Ships carrying valuable cargoes are detained on the most petty pretexts. The steamship *Portland*, American, which sailed from San Francisco April 25, 1915, for Stockholm, was detained at Kirkwall, and thence sent on to Blyth, where it was held several days. The holding up of this ship was occasioned merely by British suspicion, which in this case cast its eye upon a 34-ton cargo of dried fruit, which was sent to the Prize Court. The mere suspicion that may rest on food shipments, from wheat to peas, from meat to prunes, may cost innocent American shipping concerns and exporters thousands of dollars.

No consideration for the deterioration of perishable cargoes or for the expense of delay is shown by the British authorities. The case of the Norwegian steamship, *Bjornstjerne Bjornson*, which left New York October 28, 1914, for Copenhagen carrying a large cargo of American meat is illustrative. This ship was taken into Kirkwall on November 10, 1914, where it was detained until the 27th. It was then ordered to Newcastle, where it arrived November 29. Only on January 5, 1915, after a delay of 37 days, was the cargo ordered discharged. But even then this vessel, flying a neutral flag, was not released that it might go about its business. It was held until May, 1915, about five months after the seizure of the cargo. For the financial loss imposed the British authorities made no plausible excuse.

The steamship *Alfred Nobel*, flying the Norwegian flag, suffered likewise. This ship sailed from New York October 20, 1914, for Copenhagen, carrying a cargo including meat. It was detained at Lerwick from November 7 to the 14, and was then ordered to Liverpool, where the cargo was seized on the 17th. The vessel was not released until May 13, 1915, the period of unnecessary delay covering almost six months.

In addition to the daily expense of charter costs, and the operating cost of the ship in coal, food and the pay of crews, ship-owners must pay the cost of anchorage in ports where vessels are held. They must pay for the unloading of suspected cargoes, and if the cargoes are deemed innocent in the arbitrary opinion of British authorities, they must again pay the cost of reloading, as well as warehouse tolls for the storage of goods while in port. All of this must be borne by the innocent shipper. Should a cargo be thrown into the Prize Court, the owners must bear the expense of legal representation, which is not inconsiderable.

The discrimination against American mer-

chants dealing with customers in the Scandinavian countries resulted last August in the advance of **war risk insurance** upon cargoes to these countries. Because of the rigorous hold-up of trade, and the constant seizures of shipments, war risk insurance underwriters advanced their special hazard rates two to three per cent. The rates on cargoes destined for ports in Denmark, Norway and Sweden, not beyond Malmoe, were raised to 7 per cent. for each \$100 of insurance, and the rate on shipments sent to Scandinavian countries *via* Stockholm to a basis of 8 per cent. On the other hand the rates on shipments, in ships owned by the British Allies, to allied ports remained as they were—1 per cent. on each \$100 for shipments to Liverpool, 1¼ to Ireland, 1½ to London, 1½ to Havre, 1½ to the coast ports of England and Scotland, and 1½ to the Far East *via* of the United Kingdom. While the rates to neutral Scandinavian countries were raised, it is significant that no advance was made in the rates to Archangel.

The policy of Great Britain has been avowedly to discourage shipping to the neutral Scandinavian and Dutch countries. There seems to be no limit to the extent to which Great Britain will go in interfering with commerce on the suspicion that goods may be resold to Germany. On August 26, 1915, for instance, the Swedish steamship *United States* sailed from New York carrying a cargo for Copenhagen. The ship had unloaded at Copenhagen, a neutral port, when the British Government, on the suspicion that the goods might be resold to Germany, ordered this neutral vessel to reload under threat of seizure and to take the cargo back to Great Britain. This act appears to be not only a violation of the rights of neutral nations to trade with one another, but a gross infringement of the sovereignty of a friendly nation.

According to the statement of Sir Edward Grey, in his note of January 7, 1915, Great Britain averred that she did not intend to consider foodstuffs contraband unless destined for the armed forces of her antagonists. The W. T. Green Commission Co., of St. Louis, chartered the *Wilhelmina* to take advantage of the position announced by Great Britain and establish a resumption of trade which had consisted previously in the exporting of provisions to Germany. The *Wilhelmina* was accordingly loaded with a cargo of grain, flour and provisions, valued at \$200,000. The vessel sailed from Brooklyn, January 22, 1915, and the goods were consigned to Mr. Brooking, manager of the W. T. Green Company, who sailed in advance to Hamburg to receive the cargo. The ship sailed with the endorsement of the Department of State, and later, on January 29, the German Ambassador at Washington com-

municated a guarantee to the Department of State that the cargo would not be used by the German Government, its agents or contractors, nor by the naval or military forces.

According to a decree issued by the German Government on January 25, the Government took control of certain food supplies within the empire, but the decree specifically stated: "The provisions of this ordinance do not apply to grain and flour imported from foreign countries." Importers, however, had to deal through the War Grain Company, the Central Purchasing Company, or German community officials. This regulation regarding distribution did not throw such foodstuffs into the hands of the German military agents, but meant that the grain would be distributed through these agencies for private consumption. As the situation was not well understood abroad, the German Federal Council on February 5 rescinded the requirement regarding importers operating through the specified agencies. On February 4 the British Foreign Office issued a statement that it would stop the *Wilhelmina* and throw her cargo into a Prize Court. This contemplated action was based, allegedly, on the German Decree of January 25. Paying no attention to the fact that the regulations did not touch imported flour and grain, nor to Count Bernstorff's guarantee that the foodstuffs should reach civilians only, the British seized the cargo after the *Wilhelmina* had been forced to put into Falmouth on account of severe gales. Sir Edward Grey informed the United States Government that the seizure was based on the German Decree of January 25, and that the modification of the German Decree was not known in England on February 9, when the *Wilhelmina* was seized. In regard to this assertion it is significant that the modification had been passed by the Bundesrat on February 6, and the news was cabled to the United States *via* London. It was sent from Berlin February 6, passed the British censor on February 7, and was published in the American papers on February 8. After long delay the American shippers were finally compelled to submit to the purchase of the *Wilhelmina* cargo by the British Government, and in May a settlement of \$430,000 was decided upon by Lord Mersey, referee. Despite the compensation for loss of time, the shippers contended that they could find no satisfaction in the settlement for the enforced surrender of neutral rights and interests.

Immediately after the beginning of the war a close espionage was established by British cruisers off American ports. Neutral vessels, leaving for the ports of non-belligerent nations were stopped and searched, and in a number of cases forced to go to Halifax. The Norwegian steamer *Sandefjord* sailed from New York on No-

vember 27, 1914, with a mixed cargo, including 1,000 bags of coffee, for Copenhagen. One half hour after she had dropped her pilot off Sandy Hook the vessel was stopped by a British man-of-war, a prize crew was put aboard, and she was forced to go to Halifax, where part of her cargo was discharged. The reason for this was declared to be that the 1,000 bags of coffee destined for Copenhagen were suspected, inasmuch as it probably exceeded the city's needs, and that it might consequently find its way into the homes of Germany.

The steamship *Brindilla*, flying the American flag, sailed from Bayonne, N. J., October 13, 1914, with a cargo of kerosene for Alexandria, Egypt. This vessel had been bought by the Standard Oil Co. from the Riedermann Line and transferred to American registry. Just outside the three-mile limit of Sandy Hook she was seized by the British cruiser *Caronia*, taken to Halifax and put through Prize Court proceedings. The steamship *Maracas*, American, sailing from New York December 9, 1914, for Genoa, without excuse or explanation, was forced by a British cruiser to go to Halifax, where later she was given permission to proceed on her journey.

For a period, because of the protests of American shippers, this annoyance abated, but interference of a like kind, off the shores of the United States, has again been instituted. On October 31, 1915, the Dutch steamer *Hamborn* and the American steamer *Hocking*, were brought into Halifax. The *Hamborn* had sailed from New York October 27, with a general cargo for Caibarien, Cuba, while the *Hocking* had left New York to go to Norfolk for coal.

The *Hocking*, according to Captain Fabre, was captured by the British just outside the three-mile limit and in sight of the New Jersey coast, off Asbury Park, just about four hours from New York. Upon its arrival at Halifax, the American flag was hauled down by the prize crew in charge, just as, eight months earlier, the *Greenbrier's* flag had been lowered under similar circumstances. In seizing the *Hocking*, which had entered American registry, on the suspicion of its ownership, Great Britain acted in accordance with the Order in Council, of October 20, 1915, abrogating Section LVII of the Declaration of London:

The neutral or enemy character of a vessel is determined by the flag which she is entitled to fly.

Great Britain has always maintained this principle and upon it has based her maritime conduct in war. Her intention of continuing to do so was restated in a note dated "British Foreign Office, February 10, 1915," and addressed to the American Ambassador at London, in which Sir Edward Grey said:

forced to deviate its course to Archangel. The shipper thereby suffered great loss by the delay and deviation, in charter cost, operating expenses, war risk and maritime insurance.

Ships carrying valuable cargoes are detained on the most petty pretexts. The steamship *Portland*, American, which sailed from San Francisco April 25, 1915, for Stockholm, was detained at Kirkwall, and thence sent on to Blyth, where it was held several days. The holding up of this ship was occasioned merely by British suspicion, which in this case cast its eye upon a 34-ton cargo of dried fruit, which was sent to the Prize Court. The mere suspicion that may rest on food shipments, from wheat to peas, from meat to prunes, may cost innocent American shipping concerns and exporters thousands of dollars.

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According to the statement of Sir Edward Grey, in his note of January 7, 1915, Great Britain averred that she did not intend to consider foodstuffs contraband unless destined for the armed forces of her antagonists. The W. T. Green Commission Co., of St. Louis, chartered the *Wilhelmina* to take advantage of the position announced by Great Britain and establish a resumption of trade which had consisted previously in the exporting of provisions to Germany. The *Wilhelmina* was accordingly loaded with a cargo of grain, flour and provisions, valued at \$200,000. The vessel sailed from Brooklyn, January 22, 1915, and the goods were consigned to Mr. Brooking, manager of the W. T. Green Company, who sailed in advance to Hamburg to receive the cargo. The ship sailed with the endorsement of the Department of State, and later, on January 29, the German Ambassador at Washington com-

municated a guarantee to the Department of State that the cargo would not be used by the German Government, its agents or contractors, nor by the naval or military forces.

According to a decree issued by the German Government on January 25, the Government took control of certain food supplies within the empire, but the decree specifically stated: "The provisions of this ordinance do not apply to grain and flour imported from foreign countries." Importers, however, had to deal through the War Grain Company, the Central Purchasing Company, or German community officials. This regulation regarding distribution did not throw such foodstuffs into the hands of the German military agents, but meant that the grain would be distributed through these agencies for private consumption. As the situation was not well understood abroad, the German Federal Council on February 5 rescinded the requirement regarding importers operating through the specified agencies. On February 4 the British Foreign Office issued a statement that it would stop the *Wilhelmina* and throw her cargo into a Prize Court. This contemplated action was based, allegedly, on the German Decree of January 25. Paying no attention to the fact that the regulations did not touch imported flour and grain, nor to Count Bernstorff's guarantee that the foodstuffs should reach civilians only, the British seized the cargo after the *Wilhelmina* had been forced to put into Falmouth on account of severe gales. Sir Edward Grey informed the United States Government that the seizure was based on the German Decree of January 25, and that the modification of the German Decree was not known in England on February 9, when the *Wilhelmina* was seized. In regard to this assertion it is significant that the modification had been passed by the Bundesrat on February 6, and the news was cabled to the United States *via* London. It was sent from Berlin February 6, passed the British censor on February 7, and was published in the American papers on February 8. After long delay the American shippers were finally compelled to submit to the purchase of the *Wilhelmina* cargo by the British Government, and in May a settlement of \$430,000 was decided upon by Lord Mersey, referee. Despite the compensation for loss of time, the shippers contended that they could find no satisfaction in the settlement for the enforced surrender of neutral rights and interests.

Immediately after the beginning of the war a close espionage was established by British cruisers off American ports. Neutral vessels, leaving for the ports of non-belligerent nations were stopped and searched, and in a number of cases forced to go to Halifax. The Norwegian steamer *Sandefjord* sailed from New York on No-

vember 27, 1914, with a mixed cargo, including 1,000 bags of coffee, for Copenhagen. One half hour after she had dropped her pilot off Sandy Hook the vessel was stopped by a British man-of-war, a prize crew was put aboard, and she was forced to go to Halifax, where part of her cargo was discharged. The reason for this was declared to be that the 1,000 bags of coffee destined for Copenhagen were suspected, inasmuch as it probably exceeded the city's needs, and that it might consequently find its way into the homes of Germany.

The steamship *Brindilla*, flying the American flag, sailed from Bayonne, N. J., October 13, 1914, with a cargo of kerosene for Alexandria, Egypt. This vessel had been bought by the Standard Oil Co. from the Riedermann Line and transferred to American registry. Just outside the three-mile limit of Sandy Hook she was seized by the British cruiser *Caronia*, taken to Halifax and put through Prize Court proceedings. The steamship *Maracas*, American, sailing from New York December 9, 1914, for Genoa, without excuse or explanation, was forced by a British cruiser to go to Halifax, where later she was given permission to proceed on her journey.

For a period, because of the protests of American shippers, this annoyance abated, but interference of a like kind, off the shores of the United States, has again been instituted. On October 31, 1915, the Dutch steamer *Hamborn* and the American steamer *Hocking*, were brought into Halifax. The *Hamborn* had sailed from New York October 27, with a general cargo for Caibarien, Cuba, while the *Hocking* had left New York to go to Norfolk for coal.

The *Hocking*, according to Captain Fabre, was captured by the British just outside the three-mile limit and in sight of the New Jersey coast, off Asbury Park, just about four hours from New York. Upon its arrival at Halifax, the American flag was hauled down by the prize crew in charge, just as, eight months earlier, the *Greenbrier's* flag had been lowered under similar circumstances. In seizing the *Hocking*, which had entered American registry, on the suspicion of its ownership, Great Britain acted in accordance with the Order in Council, of October 20, 1915, abrogating Section LVII of the Declaration of London:

The neutral or enemy character of a vessel is determined by the flag which she is entitled to fly.

Great Britain has always maintained this principle and upon it has based her maritime conduct in war. Her intention of continuing to do so was restated in a note dated "British Foreign Office, February 10, 1915," and addressed to the American Ambassador at London, in which Sir Edward Grey said:

Another instance of the efforts which his Majesty's Government have made to deal as leniently as possible with neutral interests may be found in the policy which we have followed with regard to the transfer to a neutral flag of enemy ships belonging to companies which were incorporated in the enemy country, but all of whose shareholders were neutral. *The rules applied by the British and by the American Prize Courts have always treated the flag as conclusive* in favor of the captors in spite of neutral proprietary interests.

When the steamship *Dacia*, purchased by Edward M. Breitung, and placed under American registry January 4, 1915, sailed from Galveston January 31, 1915, for Rotterdam, with a cargo of cotton, valued at \$800,000, to be transhipped to Bremen, the British threatened to seize the vessel. This, however, they refrained from doing, as such a procedure would have been against the English position that the character of a ship is to be determined by the flag she flies. Unwilling at that time to make an issue of such a case, and violate all precedents, the British Government got the French to seize the *Dacia*, the French Government having no such embarrassing precedents. Ten months later, the British seized the *Hocking*, thus repudiating all the precedents of British courts and reversing and stultifying the British record.

Richard G. Wagner, president of the Transatlantic Company, which owns the *Hocking*, declared there was not a cent of German capital in his corporation. The *Hocking* was built in England and was originally the English tramp steamer *Parkland*. She was sold to a Dutch company and her name changed to *Ameland*. The vessel was then sold to the Gronland Steamship Company, of Copenhagen, and the name changed to *Gronland*. Among other vessels she was purchased by Mr. Wagner's company.

The change of registry in the case of the *Hocking* was made October 15, on her return from Argentina. After discharging cargo and being overhauled in Erie Basin, the *Hocking* left in ballast for Norfolk, on which trip she was seized.

The bill of sale for each ship purchased by Mr. Wagner was submitted to the Department of State by him and is there on file. Accompanying each bill of sale is an affidavit stating that Mr. Wagner and his associates are the sole owners of the vessels and that the absolute and full control of them is in their hands. In these papers it is further stated that the ships have been permanently transferred and sold without reservation of any charter, and that it is not the intention of the owners to resell or transfer them back to their former owners. The vessels received American registry after meeting all the requirements of the Government. This registry might not unnaturally be taken to mean that the ships accorded it were entitled to the protection of the American flag.

Great Britain has inflicted untold damage on American business, not only by interference with our sales to neutrals, but by refusing to permit the shipment to the United States of goods purchased from Germany. For months goods amounting in value to many millions of dollars have littered the ports of Sweden, Denmark and Holland, especially Rotterdam.

On April 4, 1915, the *Ogeechee*, flying the American flag, left Bremen for New York carrying a general cargo of goods purchased by American importers from German manufacturers. This ship was seized by the British and taken to Sharpness, where the cargo was unloaded and a great portion confiscated because of its German origin. An instance of how such a seizure hurts American merchants may be illuminating. Among the goods seized from the *Ogeechee* was a shipment of 50 cases of glassware valued at \$600 for a New York dealer. This dealer decided to fight out the case and engaged a lawyer to represent him. He finally got his goods, but at a cost far exceeding their purchase price. The British charged the original freight rate from Bremen to New York to cover the transportation from Bremen to Sharpness, £27.13.3; warehouse charges after goods were seized, £15.2.3; customs fees, £1.0.0; railroad express from Sharpness after goods were released to port, £2.11.0; freight to New York on the steamer *Bristol City*, £49.1.11, additional expenses, £5.6.0. In addition to these charges, amounting to \$483.48, the legal fees involved amounted to \$125, and re-insurance on the shipment from England, \$18, making a total of \$626.48. This brought the total cost of the wares, including their purchase price, up to \$1,226. Had they not been seized, the cost, including purchase price and freight, would have been \$735. The loss entailed by British interference was therefore \$491. This is the case of only one small importer among many who lost by this single seizure of the *Ogeechee*. By this sample case one may gauge the losses inflicted upon larger manufacturers and importers.

An idea of the scope of British activities on the high seas, and the extent to which neutral commerce has suffered since the war began, may be gleaned from the list of ships published on page 49, ff. It will be seen that no class of goods has been exempt from seizure. Cargoes of cotton, copper, grain and foodstuffs have generally been seized and thrown into the Prize Court. The Dutch steamer *Rotterdam*, sailing from New York for Rotterdam with a cargo of copper, was seized September 26, 1914, when copper was conditional contraband. The cargo was purchased by the British Government. Other cargoes seized and arbitrarily bought even before this metal was put on the contraband

list, were carried on the Dutch steamers *Sloterdijk*, *Potsdam* and *Westerdyk*. The list of copper-carrying ships seized at Gibraltar is too long to mention. Before Italy joined the British Allies innumerable shipments destined for that country were seized.

The fact that the British Government purchased shipments, on a basis whereby it practically made its own prices, did not mitigate the wrong involved or the damage to American shippers in the breaking off of legitimate business relations.

Within recent months cargoes of foodstuffs for the Scandinavian countries and Denmark have suffered especially from British suspicion that the shipments exceeded these countries' needs. The Swedish steamer *Indianic* sailed from New York April 28, 1915, with a cargo of foodstuffs for Gothenburg, Sweden. The vessel was hauled into Kirkwall and the cargo sold at auction. The Swedish steamer *Sydland*, which sailed from New York May 1, 1915, was taken into Harlepool and a cargo of machinery and foodstuffs thrown into the Prize Court.

Despite the position maintained by the United States in its note to Great Britain of March 30th, in which we declared our right to ship provisions and foodstuffs without hindrance to Germany *via* the Scandinavian countries, Great Britain has continued to seize cargoes of foodstuffs carried in neutral ships to Holland and the Scandinavian countries on the mere suspicion that some of this food might reach Germany. By July, 1915, there was \$14,000,000 worth of provisions held up in England.

Disregarding our official protest against the seizing of food, Great Britain put through Prize Court proceedings the meat cargoes of four ships—the *Kim*, *Alfred Nobel*, *Bjoernstjerne Bjoernson* and *Friedland*—which were seized in November, 1914.

On September 16, 1915, the Prize Court ordered confiscated three cargoes of meat valued at \$2,500,000. At the time this verdict was reached the cases of twenty-nine other vessels were pending, involving American shipments valued at \$12,500,000.

The financial wrong wrought is not alone in withholding \$15,000,000 worth of meat from neutral customers, but in the breaking off of an established trade annually amounting to many more millions.

Among recent meat-carrying ships seized was the *Vitalia*, Norwegian, which sailed from New York August 19, 1915, for Rotterdam. She was forced into Falmouth September 7th, and the cargo seized for Prize Court proceedings.

On September 30th the Danish steamship *Frederik VIII*, sailing from New York to Copenhagen, was detained at Kirkwall and forced to discharge a cargo of bacon.

In a memorandum sent October 11, 1915,

by the British Government through Mr. Page, the doctrine was flatly asserted that shippers sending foodstuffs on neutral vessels to neutral ports are under obligation to the British Government to prove that their goods are *not* going to the army or navy or the government of Germany.

The British memorandum of October 11th says that the Chicago shippers refused to admit that their shipments to Copenhagen were intended for Germany, but that "the pretense was kept up to the end that the whole business was *bona fide* neutral trade." To oppose this "pretense," the British Government maintained that "there were *strong indications*" that a large part of this food was really intended to go on to Germany; "*strong indications* that it was not merely a civilian German destination which was contemplated." The British Government averred that it had been informed that "fat bacon," besides being of value for army rations was in much demand in Germany as the raw material of "glycerine, out of which an explosive can be made." Thus, on the pretext that Germany might utilize bacon for the making of explosives, such ships as the *Frederik VIII* are held and cargoes of smoked bacon sold to Copenhagen merchants are seized and thrown into the Prize Court.

A particularly outrageous case was that of the American steamer *Llama*, which left New York October 14, 1915, for Copenhagen, carrying a cargo of oil. The ship was seized by the British, boarded by a prize crew, and on October 30 run aground on Skál Skerries, Firth, Scotland.

Meanwhile, with American business thwarted, throttled and utterly intimidated, Great Britain has gone the length of openly blacklisting ships flying neutral flags—ships upon which we are depending for the transportation of goods we need to buy and goods we want to sell—on the suspicion that they are controlled or owned by German capital. The British Admiralty in October published a list of forty-seven such vessels, warning shipping men against chartering these ships. Of this number ten fly the American flag. Their names are the *Allaguash Ausabti*, the *Genesee*, the *Hocking*, the *Kankakee*, the *Maumee*, the *Seneca*, the *Spyros*, the *Valianos*, the *Winnebago* and the *Winneconne*.

The following nations were represented on the taboo list: Denmark, eight ships belonging to the same company; Norway, eighteen ships; Sweden, two; Spain, one; Holland, four, and Brazil, four.

It was stated that such of the vessels named as would agree to trade only with the British Allies would be removed from the list. What is this but a flagrant intimidation of neutral commerce, and a wanton discrimination against the trade of all neutral

nations to the advantage alone of Great Britain? The steamship *Hocking*, seized while on her way, not to a German port, not even to a European port, but actually when plying between New York and Norfolk, Virginia, for coal, and taken to Halifax on October 31, 1915, is one of the blacklisted vessels.

On November 20, within a month after the capture of the *Hocking*, the steamship *Genesee* of American registry, flying the American flag, on her way from Norfolk to Montevideo, carrying a cargo of coal, was seized by a British cruiser and taken, in charge of a prize crew, to St. Lucia, British West Indies. The *Genesee* is owned by the American Transatlantic Company, and was one of the vessels placed on the British blacklist. The *Genesee*, according to R. G. Wagner, president of the Transatlantic Company, was built in England and was run under British registry as the *Acristam*; she was sold through a British shipping agency to a Greek company, which sold her to the Finland Steamship Company, of Copenhagen, which, in turn, last June sold her to the American owners. The *Genesee* was chartered to C. G. Blake & Co., of Cincinnati, to take a cargo of 3,800 tons of coal to Montevideo. She cleared from Norfolk, October 14, and no reason for the seizure was given.

Because of the blacklisting of the *Winneconne* by the British Admiralty, the cancellations of cargoes, according to P. H. Graham & Co., charterers, amounted to \$10,000. Mr. Graham, who is the son of an English baronet, Sir Robert James Stuart Graham, was born in the United States. In an advertisement published in the *New York Journal of Commerce*, October 26th, Mr. Graham's company declared they had investigated the assertion of the British Government to the effect that the *Winneconne* was controlled by German capital and had found, to the contrary, that the vessel is owned by a corporation the stock of which is entirely held by citizens of the United States; that the vessel never flew the flag of any of the present belligerent nations, and that all the regulations and laws for securing United States registry had been complied with. Mr. Graham announced that the cargo of the ship had been examined and passed for shipment by representatives of the British consul in New York, for which service a fee had been paid by check for \$250. Every box and package taken aboard had been inspected, the British authorities going so far as to X-ray goods packed in bales. The blacklisting of the ship by the British Admiralty not only caused cancellations of cargoes, but caused certain insurance companies to refuse to insure any part of the cargo, and others to increase the premium.

By reason of the continued interference

by Great Britain with cargo-carrying ships on the ground that Sweden would not guarantee that goods shipped to Sweden would not be resold to Germany, the Norwegian-American line, according to a news despatch dated November 21, from Christiania, decided to abandon the transportation of freight from the United States.

The liner *Kristianiafjord* arrived in Bergen with a cargo including 6,000 cases of American pork and 1,800 bags of coffee. Because of the suspicion that the pork might not be consumed in Sweden or Norway, but might perhaps find its way into Germany, Great Britain issued orders that the goods must be returned to England.

The list of ships printed on pp. 49 ff. include only a portion of the vessels held. Because of the reticence of shipping concerns, it is not possible to secure anything like a comprehensive list of detentions and seizures. It has been likewise impossible to secure adequate data from manufacturers regarding cargoes of merchandise detained and seized. British interference has had the effect of intimidating American business interests to the degree that these are afraid to complain lest they invite further hostility and persecution from the British authorities. Woollen manufacturers decline to talk about their difficulties in selling wool to Scandinavian customers for fear that Great Britain will shut off their import of raw products. Exporters of grain, cotton and copper refuse to complain publicly of the losses suffered for fear that their entire export trade, such as it now is, may be annihilated. Fear of arousing British animosity bars them from uniting in vigorous complaint.

There are certain classes of crimes concerning which it is next to impossible to procure evidence. Murder is said to be the safest of felonies because the victim, who is often a sole witness aside from the criminal, is silenced. Dishonored women do not commonly make public their humiliation. Few indeed of the victims of English wrongdoing are willing to furnish the facts for publication. As for protesting and appealing to the United States Government, few now do even that, either because they have learned that their protests and petitions are of no avail, or that the United States Government will do nothing more than possibly put the case in a memorandum and send a Trade Adviser over to the British Embassy to chat with Sir Richard Crawford over it.

The prostration of American enterprise before the domineering naval strength and commercial mercilessness of England, and acquiescence without hope of succor, are among the most discouraging features of the situation.

THE CASE OF COTTON

PROBABLY more human beings are interested, from first to last, in the growth, movement, manufacture and use of cotton than in any other industry on earth. The cotton crop is the most valuable single crop produced from the soil of the United States. One-fourth of the total value of our exports is accounted for by cotton. In a large area of the United States all prosperity depends on the sale of cotton. All other business interests in the South are dependent upon this staple, as is also the earning power of thousands of miles of railway communicating with the South. Furthermore, since the population of the cotton States rely upon this product to purchase other goods, the rest of the country feels immediately the pinch of any deficiency of growth, depreciation in price, or difficulty of sale.

The successful marketing of the cotton crop is dependent on the foreign sales of the raw product. Two-thirds of the crop, in recent years, has been sold abroad. To prevent interference with the sale is, therefore, a matter of vital importance not only to the South but to the nation. Any hindrance to it inflicts more financial damage than a partial crop failure. Provided export trade is possible, high prices in foreign markets will offset the loss of a deficient crop. On the other hand, if foreign purchasers are lacking, ruinously low prices prevail. It will be of interest, therefore, to examine particularly into the influence which the trade restrictive measures of the British Government have had upon this industry. That hardships have been inflicted and great financial loss brought about is obvious.

Of our total exports of cotton, Great Britain normally takes about one-third. Heretofore, Germany and Austria have taken another third. The war, owing to the break down of foreign peace industries, the interruption of commerce and the abrupt disorganization of credits, would inevitably have temporarily affected the cotton trade adversely. On the other hand, Germany and Austria formerly used a certain amount of Egyptian and Indian cotton; the cutting off of this supply obliged those countries to look to the United States to make good the deficiency. Then, too, neutral European countries that hitherto purchased cotton goods

from German and Austrian manufacturers, found it necessary to increase their own manufactures, and therefore to increase their imports from America. Finally, the strain and waste of war caused increased consumption of the staple on the part of all belligerents. This demand should have meant increased prices and prosperity for the Southern planter.

What actually happened is common knowledge. The average price per bale for the year ending July, 1915, was \$41.04, against \$68.06, for the previous year, according to the figures of H. G. Hester, Secretary of the New Orleans Cotton Exchange. The average price per pound in the same periods was 7.94 cents, against 13.49 cents. The crop for 1914-15 was 15,108,011 bales, but it brought only \$593,432,978, while the crop for 1913-14 was only 14,882,493 bales, yet brought the huge price of \$977,844,114. Why, with this increased prospective demand, this special market in Germany and Austria, these new markets in neutral Europe, with plenty of cotton to meet all requirements, should cotton sell for less than it costs to raise it, which is about eight cents a pound? Why and how was this great industry compelled to suffer a loss, compared with the previous year's business, of \$400,000,000?

At the beginning of hostilities in Europe, in August, 1914, the New York and New Orleans Cotton Exchanges closed. Shipping was paralyzed. Nearly all our cotton was carried in English or German bottoms. These ships dared not sail for fear of capture by enemy cruisers. Ordinary insurance did not protect against such capture, and war risk insurance became necessary.

The German ships never left American ports, and their withdrawal meant a big loss in means of carriage. The British Government requisitioned certain ships, but the others were free to sail when, a short time after the war started, the British Government insured against war risk British vessels carrying for the United Kingdom, and when, after a fortnight, the British Admiralty declared the North Atlantic free of German cruisers. Transportation of cotton to England was thus assured; but the problem of getting the staple to Germany or to

European neutrals was by no manner of means solved. More than a third of our cotton exports were thus cut off from their markets.

This condition existed for several months—long enough to affect cotton prices disastrously—before arrangements were effected whereby cotton could be sent to the neutrals and through Italy, Holland, Sweden and Denmark to Germany and Austria.

Even after arrangements for shipping through neutrals had been devised, cotton movements were seriously hampered. Americans feared that Great Britain would not allow cotton to be moved to Germany at all. The rumors would not die down that any day, while cargoes were in mid-ocean, cotton might be declared contraband. That Great Britain fostered this impression seems indubitable. In fact she took no steps to still them until forced to by Washington.

Cotton, as is known, as on the "free list," as unconditionally non-contraband, of the Declaration of London. Although this codification of international law affecting commerce in war time had never been formally ratified by all the Great Powers, Great Britain, in an Order in Council announced August 20th, accepted the rulings of the Declaration of London, with certain exceptions. Cotton was not affected by these exceptions.

However, cotton could not be carried to German ports in any but neutral bottoms. The use of other than American ships for this trade proved impossible, for the very simple reason that British capital controls the maritime insurance business of the whole world and British capital was not available for the aid in any way of Great Britain's enemies. Neutral vessels carrying cargoes to Germany could not get insurance, and could not sail without it. American marine insurance companies are closely associated financially with the English companies and were in no position to jeopardize that association. Foreign neutral companies were in a similar position. The United States Government's War Risk Insurance Bureau was limited by law to insuring American cargoes in American vessels, and to insuring them for a restricted amount. Unfortunately there was a plethora of American cargoes, cotton particularly. But where were the American vessels adapted to trans-Atlantic cargo carrying?

There was practically none, and the obvious thing to do was to buy the foreign vessels tied up in American ports and enter them under American registry, a step that had been rendered feasible by a law passed by Congress in 1914. The experiment proved unsuccessful. A Hamburg-American liner, the *Georgia*, was purchased by an American

citizen and fitted out for the South American trade, but since the British Government intimated that the validity of the transfer was questioned, the ship never left port.

Of greater interest in the effort to increase the American merchant marine is the case of the *Dacia*. It will be recalled that this former Hamburg American liner was tied up at Port Arthur, Texas. Careful study had convinced lawyers that the validity of her transfer, where the sale was *bona fide* and the change of ownership absolute, could not be questioned. British precedents fully sanctioned such transfers. The *Dacia* was purchased outright by an American citizen, entered under American registry, equipped with American officers and an American crew and loaded at Galveston with Texas cotton consigned to Bremen. The validity of the transfer was acknowledged by the Department of State at Washington. Great Britain announced that she would capture the ship. Its destination was then changed to Rotterdam, a neutral port, and Washington endeavored to get the British Government to permit the vessel to make one trip. Great Britain would not commit herself, but it was thought that in view of her own precedents and her somewhat involved diplomatic relations and purposes with the United States she would hesitate to bring this matter to an issue. So the *Dacia* sailed. Then Great Britain showed that there are several ways to prevent unwelcome additions to the American merchant marine. The *Dacia* was captured by a French cruiser and thrown into a French prize court. France had never recognized the validity of the transfer of a ship of a belligerent nation to a neutral flag. The *Dacia* experiment had failed.

The result was not much of a surprise to American shipping circles, whose manifest reluctance to undertake similar enterprises had impressed the Administration long before the *Dacia* case; as a solution of the difficulty the Ship Purchase Bill had been introduced into Congress. This called for the organization of a steamship company the greater part of whose capital was to be contributed by the Government, thus giving the organization a *quasi* governmental standing. Of course everyone realized that the purpose of the bill was to provide bottoms to carry non-contraband to German ports and that the only available ships were the German liners tied up in various American ports. A powerful opposition soon manifested itself in Congress and in certain influential newspapers. The underlying motive in this opposition was consciously and unconsciously to aid Great Britain. England objected to the transfer because the money paid would undoubtedly be used to create credits in America. Again, it would be impossible for His Majesty's Government

to exercise the "economic pressure" against a government-backed line that had already proved so successful against privately owned ships. The opposition was so vehement that the spokesmen for the bill were confused and endeavored to placate it by assurances that no step would be taken that would involve the United States with any belligerent. The situation was from one aspect humorous. Everyone thought of nothing but German ships and British opposition; but the adjectives "German" and "British" temporarily disappeared from the language. For a few weeks, these words became the great political taboo. The silence was eloquent. And in it the Ship Purchase Bill was killed and laid to rest. But in many respects, the fate of the Bill is one of the most instructive examples that could be found of the British attitude towards America's legitimate aspirations for an American merchant marine, and is worthy of long and profound study.

Before the fate of the Bill was decided, however, American cotton exporters to Germany perceived that it was hopeless to evade England's "economic pressure" on American shipping and sought to deliver their goods to Germany by neutral ships to neutral European ports. But Great Britain was prepared and took powerful aggressive action at once. One means used was to bring pressure to bear on European neutrals to place re-export embargoes on cotton to Germany, and another to create a fear in the minds of shippers that, in spite of everything, England would declare cotton contraband and confiscate cargoes.

Neutral Holland was first influenced and in the early days of the war placed an embargo on the re-exportation of cotton. Italy, also, under pressure of her economic interests and her peculiar situation of having all her overseas commerce at the mercy of the Franco-British fleets in control of the Mediterranean, also established a re-export embargo. Thus the two natural channels for the shipment of cotton into Germany were closed. Other neutrals protested at this course, basing their protest on the fact that the Declaration of London specified cotton as always "free," and that England had accepted this Declaration. That England fostered the rumors that she was about to rescind her action in this matter and declare cotton absolute contraband seems certain. Whether or no, however, these rumors accomplished their purpose; neutral ship-owners were afraid to accept cotton cargoes and consistently refused to do so.

The distress throughout the South had become acute. The current price of cotton was six cents a pound. The cotton growers of limited means were deeply in debt. Small wonder that they began an agitation for the

protection of their staple on the high seas, when they realized that they could obtain at least three times the price for their product in Germany that they could from English purchasers.

How the low prices for cotton affected the revenues of the South during this trying period, may be learned from the following extract from the "Annual Review of the American Cotton Crop, 1914-15," issued by H. G. Hester, Secretary of the New Orleans Cotton Exchange, on August 1st, of this year:

The Commercial Cotton Crop of the United States for the year ending with the close of July, 1915, amounted to 15,108,011 bales, showing an increase over that of 1913-14 of 225,518 bales. The average price for middling cotton for the year was 7.94 cents per pound, comparing with 13.49 cents last year and 12.20 the year before.

The average commercial value per bale was \$41.04, against \$68.06 last year, and \$63.59 the year before.

Mr. Hester then presents the following table, indicating the losses cotton growers had suffered during the trying period of the fiscal year 1915:

Year.	TOTAL VALUE OF CROP.	
	Bales.	Value.
1914-15.....	15,108,011.....	\$593,432,978
1913-14.....	14,882,115.....	\$977,844,114
1912-13.....	14,106,116.....	\$866,185,562

This showed that, with a record crop of more than 15,000,000 bales, Southern growers had received \$384,411,136 less money for it than for a crop of less than 15,000,000 bales the year before.

Among the palliatives for this condition suggested was the "buy a bale" movement. The purchaser was to buy a bale for \$50, pay storage charges for a year, and sell his bale at a handsome profit when the year expired. His cotton was thus to cost him ten cents a pound plus storage charges. The President of the United States purchased a bale and presented it to a hospital. The daughter of the Speaker of the House also bought a bale, as did many other individuals and organizations. Patriotic fervor took other forms. "Cotton Goods Bargain Days" were promoted throughout the country. The wearing of cotton clothes was urged to relieve the distress in the South. Judges, lawyers and officers of the Mississippi Supreme Court held a session, all clad in cotton shirts and overalls. The year has passed, and the average price of cotton has been 7.94 cents. It is pertinent to inquire what became of the President's bale, for instance, and what final good that and similar purchases did.

As an outcome of the depression, the Louisville & Nashville Railroad reduced the annual dividend on its shares from 7 per cent. to 5 per cent. The Southern Railway suspended altogether dividend payments on its preferred shares. How the cotton crisis affected the railroads of the South may be learned from the figures of the reports issued by the following three most important

roads in their annual statements, issued for the year ending June 30, 1915:

LOSSES IN OPERATING REVENUES.	
Illinois Central Railroad.....	\$4,173,327
Southern Railway Company.....	8,551,487
Louisville & Nashville.....	8,300,451

In his report to the stockholders of the Illinois Central Railroad, for the year ended June 30th, C. H. Markham, the road's president, said:

Your company during the past year has suffered from the depression in business prevalent throughout the country, and this has been most pronounced on the lines south of the Ohio River. The low price received by cotton growers for their product not only affected the revenues your company received from the transportation of lumber, but also, in connection with both commodities, had a depressing effect on the revenues from the transportation of general merchandise and on passenger travel.

In his report for the fiscal year, Fairfax Harrison, President of the Southern Railway Company, said:

It has been a difficult year. The flame of war which burst forth all over Europe at the beginning of August, 1914, had a sudden and withering effect upon industry in the South. Preparing to market the largest crop in the history of cotton growing in the United States, the Southern people were looking forward to the profits from the sale of this, their chief staple, as a stimulus to their purchasing power. When, over night, they were apparently shut out by the war from the European market, which has always consumed a large part of the American cotton crop, the people of the South were thrown back upon their own resources with a disturbingly large proportion of their chief money crop on their hands and an inadequate market price in prospect. Despite several futile plans of assistance from without, the South practically suspended for a time its industrial activities. The result was a fall, as vertiginous as that of the price of cotton, in the revenues of the railways at the South, and this lean diet was protracted, with the condition which caused it, throughout the year now under review.

In the annual report of the Louisville & Nashville Railroad, the stockholders are informed that:

This great shrinkage (in gross revenues) was due largely to the effect produced by the war in Europe upon the price and consumption of the products and manufactures of the territory served by the Louisville & Nashville Railroad Company, and to the consequent decrease in passenger travel.

In view of the heavy losses they had already sustained, and the need of the South for relief from the distress from which it was suffering, cotton shippers began to press the State Department in Washington for the adoption of measures to remedy the situation. Senator Hoke Smith, of Georgia, introduced in the Senate on October 22d a resolution providing for the appointment of a committee of five senators to take up the question of facilitating shipments of cotton to Europe. This committee was appointed, and immediately it entered upon conferences with the State Department and the British Ambassador.

Congress had it in its power to adopt reprisals against Great Britain; it might have placed an embargo on the war material which England so sorely needed. The British Government knew this full well, and in order to guard its interests, it was compelled

to emerge from the mysterious and threatening silence it had maintained and relieve the tension of uncertainty with which it had surrounded the question of its attitude concerning cotton shipments. Sir Cecil Spring-Rice, on October 26th, wrote to Mr. Lansing, then Acting Secretary of State, as follows:

Last night I received a reply from Sir Edward Grey, in which he authorizes me to give the assurance that cotton will not be seized. He points out that cotton has not been put in any of our lists of contraband, and, as your Department must be aware from the draft proclamation now in your possession, it is not proposed to include it in our new list of contraband. It is, therefore, as far as Great Britain is concerned, in the free list, and will remain there.

There was a world-wide feeling of relief at this definite announcement, for shippers felt that now all obstacles had been removed, and that the great American staple could move freely to all the countries of Europe, neutral and belligerent alike. How mistaken was this confidence soon became manifest.

Some days after Sir Cecil Spring-Rice's letter to Mr. Lansing was published, Denmark declared an embargo on the exportation of cotton. This closed the cotton trade routes to Germany by way of Copenhagen, after Rotterdam the most direct way to the Empire. Great difficulty, moreover, was experienced in obtaining from France an assurance on her part that she regarded cotton as being on the free list. It was not until December 17th, that Secretary Bryan could make this announcement.

Hardly had the movement of cotton direct to Germany begun, when American shippers began to complain of the extraordinary precautions England was taking against suspected concealment of contraband material, such as copper and rubber, in cotton cargoes destined for Germany. Cotton shippers in this country were compelled to submit their cargoes to the examination of British consuls. The inspection became more rigid at a later demand from England that all bales of cotton be X-rayed, and that the photographs must accompany the consular certificates as further assurance that the cotton contained no hidden contraband. All these regulations, of course, caused much additional delay and expense to American shippers. But even this was no guarantee that the vessels would not be detained by British cruisers and subjected to search.

The British Government, on November 2nd, declared the North Sea a military area, and warned merchant craft that, owing to mines and other dangers threatening navigation, they must strictly follow the sailing directions of the Admiralty. These instructed all vessels trading to and from Scandinavian countries and Holland, when inward bound, to move *via* the English Channel and the Straits of Dover. This simpli-

fied the English practice of seizing and detaining neutral merchant vessels.

The effect of this announcement was to cause renewed demoralization among cotton shippers. Owners of American vessels were reluctant to charter them for cotton exports to Germany and send them through the mined area of the North Sea (no Admiralty directions were given for getting through to Germany), and insurance on such craft again soared to prohibitive figures.

Yet throughout this period when by indirection the American cotton crop was being forced to lower and lower price levels and its shipment to the eager and profitable markets of Germany prevented, England solemnly denied that she was interfering or had any intention of interfering with the movement of this staple. In fact, in a British communication dated as late as February 10th, the statement was made:

Any decrease in American exports which is attributable to the war is essentially due to cotton. Cotton is an article which cannot possibly have been affected by the exercise of our belligerent rights, for, as your Excellency is aware, it has not been declared by His Majesty's Government to be contraband of war, and the rules under which we are at present conducting our belligerent operations gives us no power in the absence of a blockade to seize or interfere with it when on its way to a belligerent country in a neutral ship. Consequently no cotton has been stopped.

The latter statement was true as far as it went. To more adequately present the situation might have been added—"because, owing to various forms of indirect pressure, little or no cotton has started."

On the other hand, British merchants were not slow to perceive the advantage which their benevolent government was creating for them. With cotton at starvation prices, their agents began to acquire the staple in quantities far beyond the normal British consumption. How England "stocked up" on cotton at these prices, is evident from the following table which appeared in "Cotton," the official journal of the Manchester Cotton Exchange, Manchester, England, on October 9, 1915:

Season.	IN BALES.	
	American.	Total.
1910-11	236,349	413,910
1911-12	466,264	605,962
1912-13	397,935	578,020
1913-14	614,682	907,562
1914-15	1,197,650	1,505,500

England, by the end of the season, August 31, 1911, had a stock in hand of 413,910 bales; the next season the stock amounted to 605,962 bales; in 1913, she had 578,020 bales. These, therefore, represent the normal figures. But by August 31, 1914, at the close of the first month of the war, she had hurriedly begun to accumulate, not only American, but also her Egyptian and Indian cotton. One year later, with this accumulation, carried on during the end of 1914 and the beginning of 1915, while the South was suffering from the effects of the low prices, she had a reserve stock of 1,505,500 bales,

nearly three times her normal amount, on hand.

This procedure aroused a storm of indignation throughout the South. The feeling in the Cotton Belt was set forth clearly and emphatically in the following resolution adopted by the State Farmers' Union of Louisiana (See *Congressional Record*, February 3, 1915, pp. 3232-3233):

Resolved, by the Louisiana State Farmers' Educational and Co-operative Union of America, that we hereby pledge ourselves to do all in our power to obtain for ourselves and our fellow-citizens and mankind generally, the freedom and unhindered use of the seas and of the air, and we hereby respectfully petition our Federal Government to give due notice to all nations, in view of the losses sustained by the people of these United States, that in future we henceforth shall ship all of our products at all times and to our customers in any nation just as in the past; that this nation, being neutral, will not favor one over the other, but will treat all alike, as it ought to do, but that our government proposes to send its own ships, under its own flag, with the products of its own citizens, to its customers in any nations on earth, and will brook interference from no one in protecting the rights and the property and trade relations of its own people.

From the day that cotton began to move to Germany, throughout England voices were raised in protest. How to find a real excuse for preventing shipments was a problem, partly solved by Sir William Ramsay, the eminent British scientist who, in a letter to the *London Times*, advocated the placing of cotton on the absolute contraband list because, he asserted, it was extensively used in the manufacture of explosives. Other British scientists, more distinguished for their work in the field of chemistry, flatly contradicted Sir William Ramsay's theories. W. F. Reid, former President of the Society of Chemical Industry, spoke as follows before that society in London:

There is practically no cotton used in the manufacture of high explosives. The whole thing is a great fraud. There may be some trace of cotton in the explosive, but the bulk of it is coal products. Eminent scientists have made erroneous statements on this subject. If people associated with science would speak only on the branches with which they are connected, the advantages would be very great.

The British press opposed this popular clamor. Great American interests were involved, and the fear of an embargo on the exports of ammunition as a retaliatory measure figured largely in the public mind. To declare cotton contraband would be a particularly drastic violation of the Declaration of London. Above all, the British Government, as a neutral, was on record as opposed to this step.

During the Russo-Japanese War the Russian Government had undertaken to place cotton on the list of contraband. The Russian Government asserted in a note dated April 21, 1905, that raw cotton was used in the manufacture of explosives, and that, it being impossible to distinguish between cotton imported for this military purpose and cotton imported for ordinary peaceable

use, it was necessary to prohibit its transportation altogether.

The enforcement of this order would have shut off from British India its cotton trade with Japan, valued at approximately twenty million dollars annually. Under instruction from Lord Lansdowne, the British Ambassador at St. Petersburg notified the Russian Minister of Foreign Affairs that the Russian position was inadmissible. The British note said:

The quantity of raw cotton that might be used for explosives would be infinitesimal in comparison with the bulk of the cotton exported from India to Japan for peaceful purposes, and to treat harmless cargoes of this latter description as unconditionally contraband would be to subject a branch of innocent commerce to a most unwarrantable interference.

In the meantime, while the so-called "economic pressure" was being exerted on Germany, British shippers continued to accumulate large stocks of cotton at the low prices. Their representatives in the South bought and carried large quantities of the staple for the benefit of English spinners. When the freer movement of cotton began, the cargoes were in greater part composed of the staple which had been purchased earlier at nearly the very lowest prices by British representatives.

This is made evident by the following table, which shows that, while the exports of the staple from the United States for the first seven months of 1915, ending July 30th, amounted to 5,937,400 bales, yet the amount of money obtained was but little greater than for the 3,713,300 bales shipped abroad during the same period in 1914:

Department of Commerce of the United States.			
Monthly summary of Foreign Commerce of the United States July, 1915:			
Total bales	Seven months ended		
exported.	July, 1914.		1915.
Bales.....	3,713,321.....		5,937,436
Value.....	\$235,102,634.....		\$271,153,652

It was obvious that if Great Britain wanted to put cotton on the contraband list, some other excuse must be found. The opportunity soon came. The German Government, on February 4, 1915, declared the waters about Great Britain a War Zone wherein enemy merchant vessels would not be safe. England promptly hinted at retaliation in the form of complete stoppage of our exports to Germany. The Premier, Mr. Asquith, speaking before the House of Commons on February 11th, said that the British Government was about to adopt more stringent measures against German trade. He continued:

The government is considering the question of taking measures against German trade, in view of the violation by the enemy of the rules of war. I hope shortly to make an announcement of what those measures are to be.

Practically, this announcement was a trying out of American public opinion. Some days later another test was made by

means of a news dispatch from London which stated that "a blockade of German coast, or, at any rate, the prohibition of foodstuffs destined for Germany" was under consideration. Then, on March 1st, Mr. Asquith announced in Parliament the now famous March 11th Order in Council. It declared that the British and French Governments would hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership or origin. The effect of this was a virtual blockade of the neutral ports of Holland, Denmark, Norway and Sweden, with the exception of the ports of Norway and Sweden in the Baltic Sea.

Vessels immediately refused to accept cotton or other shipments of German destination or origin. Insurance was withdrawn on all such shipments. A great volume of cotton was lying in this country contracted for delivery to Germany, but had not yet moved.

The British Ambassador was "requested" by an official of the United States Government to extend relief to the embarrassed shippers by adopting some rule that might permit such shippers, who had sold cotton to Germany before March 1st, to forward their cotton.

In a communication issued by the British Embassy in Washington, on March 8, 1915, it was announced that the British Government would make the following concessions:

1. All cotton for which contracts of sale and freight engagements had already been made before March 2, to be allowed free (or bought at contract price if stopped), provided ships sail not later than March 31.
2. Similar treatment to be accorded to all cotton insured before March 2, provided it is put on board not later than March 16.
3. All shipments of cotton claiming above protection to be declared before sailing, and documents produced to and certificates obtained from consular officers or other authority fixed by (Allied) Governments. Ships or cargoes consigned to enemy ports will not be allowed to proceed.

This meant, therefore, that cotton contracted for Germany before March 1st, might be shipped to neutral countries up to March 31st, but not directly to Germany.

The instance of the steamship *Kina* gives evidence of what the British Government described as a sympathetic consideration of the cotton interests. This vessel, which had a cargo of cotton contracted for before March 1st, destined for Germany, found it impossible to load before the end of March. The State Department sought permission from the British Government for a time extension on this one ship. Great Britain accorded this favor in a cable despatch transmitted through the American Ambassador in London, dated March 29, 1915:

I am informed by the Foreign Office on the 24th that the S. S. Keit (*Kina*), in view of the special circumstances of the case, will be permitted to go forward on her prearranged trip from Savannah to Rotterdam,

Goeteborg, and Copenhagen, provided, however, that her cargo of cotton is covered, with the exception of the date of sailing, by the terms of the agreement recently concluded concerning such shipments, and further provided that there shall be allowed no undue delay to occur in reloading this steamer on arrival at Savannah, and in the departure of the steamer from Savannah.

Sir Edward Grey most earnestly requests that it be distinctly understood that this indulgence must not be used as a precedent for further exceptions from the provisions of the agreement above referred to.

The *Kina* steamed from her port, but she never reached Rotterdam, for, notwithstanding the above promises, she was stopped and her cargo thrown into a British prize court. It was then evident that Great Britain would neither permit cargoes to go direct to a German port, nor allow cotton cargoes destined for Germany *via* neutral ports to reach their destination. On March 31st, a new Order in Council became known, empowering the British Government to requisition the cargoes of neutral vessels found in British ports. Since British cruisers could stop and bring into British ports any neutral vessels they encountered, it was evident that ships bound for neutral countries carrying cargoes of cotton, or any other commodities, could be taken into British ports and their cargoes requisitioned at England's whim.

Many cotton cargoes destined for neutral countries and their legitimate needs, were seized and bought by England, but the compensation thus accorded by no means made good the loss sustained by the American shipper. His trade connections were broken off, for the foreign purchaser thereafter would give his orders to English cotton merchants rather than take the risk of further losses and delays when trading with Americans. It was a golden windfall to the British manufacturer to find the neutral countries of Europe restricted in their supplies of raw cotton. The Department of Commerce in Washington, on August 5, 1915, stated that British exports of cotton goods and cotton yarns to Scandinavia and Holland in the first six months of 1915, showed a large increase over 1914. While our exporters were hampered in their shipments of raw cotton to European neutrals, Holland and Sweden each bought from England five times as much raw cotton in June, 1915, as in June, 1914.

Twenty-six cargoes of cotton, destined for neutral ports in Europe were detained in English ports during March and April, but despite the efforts of the unofficial Foreign Trade Advisers of the State Department, England did not begin to make payments on this cotton until the month of June. These detained cargoes amounted on July 19th, to sixty, and by that date only \$3,500,000 had been paid on the seized shipments. Finally, on July 20th, the British Board of Trade made a ruling that detained cotton cargoes, the ownership of which had passed to Germans, would be confiscated without

payment. Meantime a form of "economic pressure" was being exerted on cotton dealers in the United States. Many of the latter are associate members of the Liverpool Cotton Exchange, and these were instructed to sign agreements not to deal directly or indirectly with enemies of Great Britain. It was stated that those who so signed would have their names posted on the Liverpool Exchange and receive preference by the Liverpool members, which, in effect, was a blacklisting of such Americans who did not accede to the British demands. The agreement was as follows:

I, of an Associate Member of the Liverpool Cotton Association, do solemnly and sincerely declare that neither I nor my firm, nor any partner in the same, nor any branch house or other firm or firms in which I or any one of my partners may be directly or indirectly peculiarly interested, will trade or have dealings with any person or a member or representative of any firm or person domiciled or carrying on business in any State at present at war with His Britannic Majesty until such time as peace may have been declared, and I further undertake when trading with subjects of neutral countries to make all necessary inquiries in order to satisfy myself as to the ultimate destination of the goods, and that none of them are intended for consumption in or for transit through any State at war with His Majesty.

Declared this day of

Witness

Address of witness.....

There was a renewal in England, toward the middle of July, of the agitation for making cotton contraband, and then the British Government announced its intention of restricting neutral countries to the amounts of cotton which they had annually imported in normal years. Any excess of this amount, thereupon, was promptly confiscated by England, despite the vehement and indignant protests of the neutrals.

We have seen now how Great Britain, step by step, on one specious plea or another, has crippled the foreign trade of the United States in her most valuable commodity, cotton. And this cotton, be it remembered, is the basis of British trade supremacy. In detail, her methods to this end were as follows:

At the very commencement of the war, in unofficial warnings she allowed shippers to believe that she might at any moment seize all cotton shipments to Germany. Through her great marine insurance companies, she made insurance rates to enemy ports prohibitive. Refusing to recognize the transfer of foreign ships to the American flag, she seized American vessels purchased from foreigners.

Then England checked the attempt to create an American merchant marine, and caused the abandonment of the Ship Purchase Bill by her threats not to acquiesce in the purchase by the American Government of foreign-owned vessels. She exerted pressure on neutral countries adjacent to Germany, and compelled them to place re-

export embargoes on cotton entering their ports. Having by these methods, caused a drop in the price of cotton to six cents a pound, less than one-half its normal price, impoverishing the South, her importers bought up, for the benefit of the British manufacturing trade, vast and unusual quantities of the staple, which in future months was to be exported by the English in its raw and manufactured state to the benefit of British commerce and the detriment of America's foreign trade.

Compelled by the indignant protests of American cotton growers and their representatives in Congress, to announce that cotton was still on the free list, Britain began a systematic course of imposing expensive and vexatious rules and regulations on American shippers, such as X-raying their bales of cotton and enforcing the submission of shipments to the examination of British consuls.

England still further hampered the export of cotton by declaring the North Sea a military area, and forcing navigation into prescribed channels so that the seizure of neutral vessels was facilitated. On March 1st, of this year, England announced that she would stop and take into port ships carrying goods of presumed enemy destination.

Great Britain then announced by an Order in Council that she would, if need arose, requisition the cargoes of neutral vessels brought to British ports. American cotton merchants who did not sign an agreement to deal exclusively with Great Britain and her Allies were blacklisted on the Liverpool Exchange.

But the final step was to come; Great Britain was to drop her mask and boldly declare that all these restrictions were but mere subterfuges, and that all along she had determined not to abide by her given word, so earnestly repeated, that she regarded cotton as being on the free list, in accordance with international usage and the provisions of the Declaration of London.

Suddenly and shamelessly, the announcement was made in the House of Commons that Great Britain intended to declare cotton absolute contraband of war. This was on August 23rd, and on August 25th the formal notification reached the authorities at Washington.

And this declaration of embargo on cotton was issued by the Government which had announced that it would abide by the pro-

visions of the Declaration of London, and which even as late as October 26, 1914, had given this country the assurance, that, so far as Great Britain was concerned, cotton "is in the free list, and will remain there."

If the British Government dealing with an interest of the magnitude of American cotton violates its promises formally made to another great power, what confidence can be felt in any assurances whatsoever that the British Government may make?

Yet even this abandonment of her most solemn promises and pledges was not sufficient. England has gone further. On October 12th, in the House of Commons, Sir Edward Grey, Secretary of Foreign Affairs, made this announcement in response to a question:

Great Britain has declared raw cotton, cotton waste and cotton yarn all contraband.

It is intended that every possible step shall be taken to prevent the supplies of these articles from reaching Germany. It is intended also to declare contraband cotton piece goods and other cotton products and to prohibit the exports to neutral countries contiguous to Germany and Austria of goods susceptible of being used in the manufacture of explosives.

The end and aim of Great Britain's activities in restraint of the American cotton trade is fully revealed by the following table taken from British sources, "Cotton," the official journal of the Manchester (England) Cotton Association, October 9, 1915, Page 16. They explain how, despite the war, and despite the fact that she has lost her best customer, Germany, England is exporting greatly increased quantities of cotton, while she is curtailing American shipments to neutral countries:

LIVERPOOL STATISTICS.

(In 1,000's of bales.)

Actual export of Great Britain from August 1, previous year, to nearest Friday to July 31 of named year:		
Year.	American.	Total.
1912.....	315	507
1913.....	233	429
1914.....	177	342
1915.....	249	519

Here it may be seen that Great Britain exported 507,000 bales of cotton in 1912; 429,000 in 1913; 342,000 in 1914 (to July 31st), and 519,000 for the twelve months, dating from the very beginning of the war. In the twelve months of the war, naturally, England was not sending her customary exports of raw cotton to countries such as Germany, Belgium, Austria-Hungary.

England's increased shipments of cotton can be accounted for only by the fact that she has been selling to the neutral countries of Europe our own cotton which she does not allow us to sell them directly.

BRITAIN'S INDIRECT INTERFERENCE WITH AMERICAN TRADE

DEPENDENT upon raw materials, imported from Great Britain, British colonies, or from nations whose output comes through British-controlled channels and, above all, subject to the dominion which Great Britain arrogates to herself over the merchant marine of the world, American manufacturers, in order to obtain these necessary raw materials, have been compelled to enter into agreements in restraint of trade—agreements by which virtually and practically Great Britain, a foreign power, assumes control of our great national industries.

Those branches of industry vitally and seriously affected by British dominance and exactions include the rubber, textile and tin trades. By reason of sworn agreements which manufacturers must sign in order to obtain raw products, no sales can be made by American manufacturers to customers in any country outside of Great Britain and her allied nations. Sales to Germany, Austria-Hungary and Turkey are absolutely prohibited. Sales to neutral nations, such as Holland, Norway, Sweden and even South American countries, can be effected only through agents in London. Shipments to United States possessions, including Porto Rico, the Philippines and Hawaii, can be made only by the gracious acquiescence of the British Consul at ports of shipment. Sales of manufactured, or even partly manufactured, products even to merchants in the United States are restricted, wholesalers putting themselves under the obligation of guaranteeing that their own customers in turn will not make sales to the Germanic countries. The agreements into which rubber, wool and tin manufacturers are obliged to enter are specific and ironclad, and give to British commercial representatives in the United States unrestricted, unhindered and absolute control of these great and important industries. The agreements aforesaid are in violation of United States laws—specifically of Section 73 of the Act of February 12, 1913 (Cl. 40), and Section 3 of the Sherman Act of July 2, 1890—and make of all merchants signing them violators of these laws and enforced criminals.

Consider, as an example, what has happened in the case of rubber.

Great Britain declared rubber conditional contraband in September, 1914. She placed rubber on the absolute contraband list November 12, 1914. Inasmuch as seventy per cent. of all rubber used in the United States comes from the Federated Malay States and Ceylon, and as the British policy threatened to shut off the delivery of Brazilian rubber, constituting thirty per cent of that used, and which could reach the United States only *via* England, or direct by the British Booth Line, delivering goods only consigned to the order of the British Consul-General, negotiations were begun in December, 1914, for the lifting of the embargo by a committee representing the Rubber Club of America, Inc., and the Department of State. Told that the United States was helpless, the committee consulted with the British Ambassador, Sir Arthur Cecil Spring Rice, and later a representative—B. G. Worth, of the B. F. Goodrich Co.—went to London, where conditions for the import of rubber into the United States were agreed upon. The "Rubber Club of America" was designated to act as import agent for Great Britain, and Sir Richard Crawford was sent to the United States as commercial attaché of the British Embassy, to take charge of the situation.

Under the terms of the agreement decided upon, an agreement to which each individual manufacturer must adhere under oath in order to obtain crude rubber, no rubber products whatever can be exported from the United States except to Great Britain and her allies, and no sales made to neutral non-belligerent countries except through British agents stationed in London; all shipments being made by way of and through London. The terms include a restriction in the disposition even of Brazilian rubber, thus enabling Great Britain to tie up the entire rubber trade of the United States. The terms were first made known to rubber manufacturers by a circular sent to all members of the Rubber Club of America and the Rubber Trade Association of New York on January 30, 1915. The specifications given were as follows:

First—Manufacturers cannot export or sell to any one who might export crude rubber, waste rubber or reclaimed rubber, except to Great Britain or a British possession. They may not sell plantation rubber even to any one in the United States. A manufacturer may, however, sell Brazilian rubber to a customer in the United States, but for his own protection should assure himself that no exportation is intended.

All plantation rubber must be used in the factory of the manufacturer for whom it is imported.

Second—No direct shipments of partly manufactured goods may be made to a European neutral, like Sweden, Holland or Italy. Such orders can be filled only through an agent in London. For example, an order for automobile tires for Sweden cannot be shipped direct. You must appoint an agent in London, and he must get a permit from the British Government to ship the goods from London to Sweden. This having been arranged, you can forward the goods to your London agent.

It is recognized that this mode of shipment is difficult for those who have no London agent, and the embargo committee is endeavoring to secure the acceptance of a plan which will greatly simplify it.

To such manufacturers as have no London agents the secretary is prepared to recommend firms of forwarding agents with both New York and London houses who can attend to such business.

Third—Bear in mind that the British Consul-General at New York has no authority to modify these rulings. If you attempt to make a shipment direct to Sweden, and have the papers vised by the British Consul, you are still in violation of your obligation. Informing the consul that you are about to violate will not help you. His signature means only that he has been informed, not that your obligations have been modified by him.

Fourth—No goods must be sold for delivery to an enemy of Great Britain. This is plain enough. If through intent, carelessness, or misfortune, your goods are found in transit to Germany, your permit will be cancelled. You must be sure. This does not mean, we are informed, that there must be an agreement not to export accompanying every tire you sell, but every reasonable precaution must be taken. You should have definite agreements from every customer who is likely to export, and we would suggest the use of a rubber stamp for all orders and invoices, stating that the goods are sold with the understanding that they are not to be exported, except to Great Britain, France or Russia or to a European neutral by way of the United Kingdom or to a non-European neutral.

Fifth—All goods exported to a non-European neutral, like the South American countries, Mexico or Cuba, must be reported to the British consul at the port of shipment. We recommend that this report state only of what the shipment consists and the port of destination. We do not understand that it is necessary to state prices or even the name of the consignee.

Sixth—Pending further information we would also advise notifying the British consul of shipment to Porto Rico, the Philippine Islands and the Hawaiian Islands.

Seventh—Tires which you export must bear adequate marks of identification. You must inform the British consul in writing, stating what these are.

Eighth—The question has been raised whether or not rubber from the Dutch East Indies will come under these obligations. On this point we would strongly advise, pending further information, that Dutch rubber be regarded exactly the same as if it were plantation rubber; otherwise misunderstandings will almost surely arise, and the shipper would perhaps suffer cancellation of his permits pending investigation.

In general it is unquestionably the desire of Sir Francis Hopwood, who is in charge, that everything consistent with the protection of British interests shall be done for the convenience of the American industry and as rapidly as the organization can be perfected for handling it. If any part of the plan proves too cumbersome after trial, it is believed any reasonable relief can be secured.

Sir Richard Crawford has just arrived and will be attached to the British Embassy as commercial attache. *It will be a part of his duties to deal with the problems arising in connection with the rubber situation, and it is promised that he will co-operate fully with this committee.*

Sir Francis Hopwood made it particularly clear to Mr. Work that the American industry could feel se-

cure under the present plan unless numerous violations occurred. *Emphatic warning was given that in case any manufacturer, importer or dealer came under suspicion his permits should be immediately revoked. Reinstatement will be slow and difficult. The British Government will cancel first and investigate afterward.*

The initial communication was signed by the Embargo Committee, consisting of Arthur H. Marks, of the B. F. Goodrich Company; H. Stuart Hotchkiss, of the United States Rubber Company; George B. Hodgman, of the Hodgman Rubber Company, and William E. Bruyn, of L. Littlejohn & Company.

American importers, in applying for rubber through the Rubber Club of America, are obliged to sign an agreement embodying the above requirements. The agreement exacted is as follows:

His Britannic Majesty's Consul-General at New York. In consideration of your consenting to the delivery to us of the rubber specified in the margin, we hereby give you the following undertaking, which shall remain in force so long as Great Britain is at war with any European Power:

We will not export from the United States any raw rubber, reclaimed rubber, or waste rubber, whether the same has been imported from the British Dominions or not, otherwise than to the United Kingdom or to a British possession.

We will not sell the rubber now delivered by you to any dealer or other person or persons in the United States, but will use it for our own manufacturing purposes.

All orders received by us for manufactured or partly manufactured rubber goods to be sent to neutral European countries shall be executed by shipments to the United Kingdom and reshipment from there under license to be obtained for export therefrom.

We will not execute any orders for manufactured or partly manufactured rubber goods to be sent either directly or indirectly to any country or State at war with Great Britain.

We will not sell any manufactured, or partly manufactured, rubber goods to any person in the United States without satisfying ourselves that there is no intention on his part to export or resell the same for exportation to any countries in Europe other than Great Britain, France, Russia, or Italy, otherwise than by shipping to the United Kingdom and reshipping from there, under license to be obtained for export therefrom.

If we export any manufactured or partly manufactured rubber goods to a destination outside Europe not being in a British possession, we will, prior to or simultaneously with the shipment, give you particulars of the goods so shipped and their destination.

All rubber tires exported by us or sold by us for export shall bear a distinctive name or mark, which we will communicate to you, so as to identify them as being our manufacture.

When he sells to an American purchaser, the importer himself is obliged to sign a guarantee, which is sent to the British Consular representative at New York, as follows:

RUBBER GUARANTEE

RUBBER. His Britannic Majesty's Consul General, New York.
I beg to inform you that I have
Ex. s. s. sold the rubber specified in the margin to
.....
Packages whose guarantee you will find on the back hereof. I will produce to you
Weight at any time on demand the original contracts or other documents evidencing the sale.
Marks denoting the sale.

In consideration of your consenting to the delivery to them of the said rubber, I undertake that I will not, directly or indirectly, at any time so long as the present war continues, export any raw rubber, reclaimed

rubber, or waste rubber from the United States, except to the British dominions, and that I will not sell any raw rubber, reclaimed rubber or waste rubber for exportation without satisfying myself that it is not intended for exportation from the United States, except to the British dominions.

AGREEMENT.

THE B. F. GOODRICH COMPANY.

We hereby agree that any quotation asked for, and any purchases made by us from you or another of any of your products, shall be in each and every case only for domestic use or shipment to Great Britain, France or Russia, unless accompanied by permit satisfactory to you. We pledge ourselves in this fact, and agree that the execution of this document shall be binding on us for such length of time as you shall consider it to be effective, and cancellable only by you.

We further agree to submit to any and all investigations that may be necessary on your part, and to give free access to any and all of our books, if called on so to do, to establish the fact of our non-exporting, or selling to another to export, in violation of this agreement.

And further, we agree that any order, even though accepted by you, may be cancelled without redress on our part at your option for any cause whatsoever, during the period that a state of war exists abroad, between Great Britain and any other country.

In case we tender any order that is for shipment out of this country, we will in each instant state thereon its destination.

Signed.....

Dated.....

Per.....

Inscribed and sworn to before
me this day

of.....

Notary Public.

The intending purchaser of the consignment in turn signs a similar guarantee in his application for crude rubber. These application forms are turned over to the Rubber Club of America, which is required to stamp them with "Approved." The British Consulate at New York then forwards the application to the British Government, which permits the sending of rubber or forbids it, as it sees fit.

Three large rubber concerns—the United States Rubber Company, the B. F. Goodrich Company and the Goodyear Tire and Rubber Company—are importing rubber through the British Government direct, on the same guarantees required of other importers. In addition, however, these firms were required to put up a bond of £50,000, to be forfeited in case of violations of their guarantees.

A rubber manufacturing concern, which had done business with one of the countries to which sales are prohibited, endeavored to secure raw rubber from the B. F. Goodrich Company. In reply the concern received the following letter, which reveals the stringency of conditions imposed:

THE B. F. GOODRICH COMPANY,
1780-82 BROADWAY,
NEW YORK CITY

DEAR SIRS:

Without discussion as to the merits of the case, we beg to advise that our supply of crude gum is dependent on the actions of the English Government. Under certain restrictions we are enabled to obtain our requirements. This involves a heavy cash penalty for failure to observe the obligation we have assumed, far and away in excess of this is involved the good faith of our Company in absolutely complying with its pledges. We cannot afford for the sake of any one business to risk in the slightest this latter obligation. Necessity, therefore, compels certain operations to protect the situation in both your and our interests.

It will not permanently serve you to attempt in any way to violate the restrictions now surrounding the export of rubber goods to foreign countries. On the contrary, you would do a great harm to the domestic needs of this country. If for any reason the American manufacturers of rubber goods are prevented from executing their pledges, the supply of gum would cease, hundreds of thousands be thrown out of employment, prices for all classes of rubber goods reach unheard-of figures, all to the hurt of the domestic buyer here at home.

We feel, therefore, we will not be misunderstood in asking that before we quote or sell you, you execute the attached form of agreement. On its return signed by an official of your company, and acknowledged before a notary, we will be pleased to sell you in accordance with the terms therein.

Very truly yours,

THE B. F. GOODRICH COMPANY.

With the letter was enclosed the following agreement:

To summarize the situation as Great Britain's policy affects American rubber manufacturers: In order to obtain crude rubber, from British possessions as well as from neutral Brazil, every manufacturer must sign an agreement whereby he relinquishes his right to sell manufactured goods to customers in any and every country outside of Great Britain and her Allies, and takes oath that he will not do so; intending purchasers of manufactured, or partly manufactured, products must themselves make a similar guarantee. No rubber can, therefore, be sold to customers in any of the neutral, non-belligerent European countries. Shipments even to South American countries are prohibited except where the goods are sold through London agents and shipped far out of their way to London, and thence to South America. To cite an illustrative instance:

A concern located in New York, with a branch house in New Orleans, gave an order July, 1915, for rubber tires to the Goodrich Tire and Rubber Company, for shipment to Cartagena, Columbia, South America. This house carried on an extensive trade with South and Central American countries. The Goodrich company sent to the trading concern a copy of the embargo affidavit, asking them to sign it in accordance with the instructions imposed by the British Government. The concern in its reply declared that the goods ordered were for shipment to Cartagena, were positively not to be used for any other purpose, and that the Goodrich concern might give the details to the British Consul at New York in order to obtain a

shipper "Textile Alliance, Inc." and must be consigned in one of two ways, namely:—

(1) "To Messrs. Freshfield, 31 Old Jewry, London, E. C., account of Messrs. (Name of recipient)." In this case the shipper must send all of the original Bills of Lading, and one memorandum copy to the Textile Alliance, Inc., 120 Milk Street, Boston, or 45 E. 17th Street, New York, with notice that all requirements have been complied with. This will enable the Alliance to transmit the Bills of Lading to Messrs. Freshfield with proper notification to enable them to release the shipment. The Alliance will not accept documents unless free from notice of lien.

(2) "To Messrs. (name of approved Custodian bankers) for account of Messrs. Freshfield. Notify Messrs. (name of recipient)." Shippers must send us in each case one memorandum copy Bill of Lading to enable us to notify the War Trade Department that their requirements have been complied with, and furnish Messrs. Freshfield with the necessary information that they may authorize the custodian bankers to release the merchandise to the recipient.

The Custodian bankers approved by the British Government are:

Messrs. Baring Bros. & Co., Ltd.

Messrs. Brown, Shipley & Co.

Messrs. Higginson & Co.

Messrs. Morgan, Grenfell & Co.

Standard Bank of South Africa, Ltd. (London office).

Hong Kong & Shanghai Banking Corp. (London office).

Third: The name of the person in the United Kingdom to whom the Bill of Lading is to be released by Messrs. Freshfield, must appear in the notice that the shippers send to the Textile Alliance, Inc., with the Bill of Lading.

Fourth: The Alliance charge to cover their expenses is 1 per cent. of the total selling price of the merchandise, including all charges, but not including prepaid freight and prepaid insurance, if any. This charge is payable at the time of shipment and remittance should accompany Bills of Lading sent to the Alliance. It is understood that on the expiry of the Agreement between the Textile Alliance, Inc., and the British Government any balance or fund created for the services and expenses of the Alliance, shall be returned pro rata.

Fifth: Shipments made under the foregoing conditions may be sent *via* all routes and to all destinations in the United Kingdom.

Sixth: The granting of licenses and permits to ship rests solely with the British Government. Interested parties must bear in mind that licenses and permits will be granted only in so far as may be to the interest of Great Britain and her allied countries, and furthermore, that the granting of licenses does not insure that the merchandise upon arrival in the United Kingdom is necessarily to be delivered to the intended recipient.

Seventh: Consignors must pay all charges imposed by the Custodian Bankers and should make their banking and shipping arrangements independently of the Textile Alliance, Inc.

Eighth: Messrs. Freshfield will make suitable provision for releasing shipments in the United Kingdom upon receipt of advice from the Textile Alliance, Inc., that all requirements have been complied with.

Ninth: Persons attempting to export by irregular channels will not only risk detention, but will disqualify themselves as exporters of Tops and Yarns and importers of Wool, etc., from all parts of the British Empire.

Tenth: The President and the Textile Alliance, Inc., assume no responsibility in regard to financial or other arrangements. Buyers, sellers and importers must indemnify and agree to hold harmless the Textile Alliance, Inc., and A. M. Patterson, individually and as an officer of the Alliance, and Messrs. Freshfield from ALL liability.

Under existing conditions, as has been shown, American manufacturers do not suffer alone by the detention of ships and the seizure of cargoes by Great Britain. The restrictions placed upon various industries *within the United States* by illegal trade agreements affects business with neutral nations not only at present, or so long as the

British sea policy continues, but threaten to alienate customers in non-belligerent countries for years to come.

With rubber declared contraband by Great Britain, shipments of rubber goods cannot be made by an American manufacturer to any customer in Holland, Denmark, Norway, Sweden or any neutral country. If shipments are made, they will be seized in all probability by Great Britain. On the other hand, shipments can, however, be made through British agents, the goods being sent to England and reshipped thence by the agent, who collects a commission. Thus the rubber trade of the world, outside of the United States, is practically, and to all purposes, thrown entirely into the hands of British agents, who can seize the trade relations broken by England's policy between American sellers and European buyers and establish themselves in all countries where American trade is ousted. And the impositions placed upon the textile industry have absolutely wiped out our export trade with neutral European nations in wool.

An American manufacturer desiring to import raw wool into the United States must make application to the president of the Textile Alliance, signing an agreement not to sell any woolen products, manufactured or partly manufactured, to a customer in any country except Great Britain. Likewise shipments of manufactured, or partly manufactured, goods to Great Britain can also be made only through an arrangement with the Textile Alliance. It is absolutely impossible for American exporters to ship yarns, etc., direct to customers in Sweden, Norway, Holland, Denmark or any neutral country.

Even American manufacturers who buy their raw products in the United States suffer from these conditions. American raw wool, yarns, and "tops" cannot be shipped to a customer in Sweden, Norway, Holland or Denmark. Any wool shipped except through the Textile Alliance and to Great Britain alone is liable to confiscation. Except through the Textile Alliance, or through the British Embassy, no guarantees of delivery of American woolen goods to customers abroad can be obtained.

And yet, despite the restrictions to which American manufacturers subject themselves, entangled as they are by a network of agreements, legal clauses and prohibitions, all acting to the advantage of Great Britain alone, American manufacturers, when they come to the point of selling to customers in neutral countries, find that the guarantees are quite ineffectual and worthless. Goods may be sold to British customers direct—even then the delivery is not guaranteed by British authorities.

Goods may be consigned to customers in neutral countries through British brokers,

but then the Textile Alliance takes the position that it cannot guarantee the safe conduct of shipments even to the London brokers. Thus tied up as they are by agreements and trade entanglements, American manufactures enjoy no recompense, inasmuch as all the guarantees work out so as to be absolutely worthless, and in the end they find themselves helpless in the arbitrary hands of Great Britain's naval authorities.

What is the result of this bottling-up of legitimate American commerce and the restriction of its export trade to Great Britain alone? British woolen manufacturers and agents—to whom the entire export trade of the United States is diverted—can themselves sell to whomsoever they will. They can—and do—take over the trade with all the concerns in Holland, Denmark, Norway, Sweden, as well as in any other country, who have hitherto dealt with American manufacturers, and they can—and do—prevent American manufacturers from securing new customers forced by the war to look in this direction.

Taking advantage of the fact that nearly all of the tin, tin ore and chloride of tin used by American manufacturers is imported from Great Britain and her dependencies, conditions quite as rigid as those imposed for the use of rubber and wool govern this trade. That Great Britain has assumed to control the tin industry of the world is shown in a letter sent by the United States Steel Products Company—which is closely allied with the United States Steel Corporation—of which James A. Farrell and Elbert T. Gary are directors, to all of its exporters and customers. Guarantees that sales of tin products shall not be made to countries other than Great Britain and her allies must be made to obtain raw material. The letter sent out by the United States Steel Products Company is as follows:

The tin plate sold by us is manufactured by the American Sheet and Tin Plate Company, and the supplies of pig tin which are used by them in the manufacture of said tin plate are imported from Great Britain and possessions.

In order to obtain such supplies of pig tin we are obliged to sign an undertaking, which has been put into effect by the British authorities, known as the "tin guarantee," a complete copy of which is given herewith for your information.

In order to carry out the terms of this guarantee, notice is hereby given that all sales and shipments made by this company on and after this date are made subject to the following conditions:

"It is understood and agreed that the within mentioned tin plate, or tin canisters and tin boxes suitable for food packing made therefrom, is sold subject to the terms of the guarantee as promulgated by the British government authorities, which requires (a) that orders for such materials will not be executed to be sent, either directly or indirectly, to any country or state at war with Great Britain; (b) that no sales of such materials will be made without obtaining satisfactory assurances from the buyer that there is no intention on his part to export or resell the same for exportation to any country in Europe other than Great Britain, France, Italy or Russia, otherwise than by shipping to the United Kingdom and reshipping from there under license to

be obtained for export therefrom; (c) if any exportations of such materials are made to a destination outside of Europe not being in British possessions, full particulars of same are to be reported to his Britannic Majesty's consul-general at New York prior to or simultaneously with the shipment, giving particulars of the goods so shipped and their destination."

This notice is issued with the understanding that the terms and conditions under which sales of tin plate shall hereafter be made to this company may be altered or changed in accordance with any changes or modifications that may be required by the British government authorities.

Accompanying the letter was the following copy of the agreement which the United States Steel Products Company had entered into:

In consideration of your consenting to the delivery to us of the tin, chloride of tin, tin ore, specified in the margin, we hereby give you the following undertaking, which shall continue in force so long as Great Britain is at war with any European power:

We will not export from the United States any tin, chloride of tin or tin ore, whether the same has been imported from the British dominions or not, otherwise than to the United Kingdom or to a British possession.

We will not sell the tin, chloride of tin, tin ore now delivered by you to any dealer or other person or persons in the United States, but will use it for our own manufacturing purposes.

All orders received by us for tin plates or tin canisters and tin boxes suitable for food packing made therefrom, or for tin foil, solder, Babbitt's metal, type metal or any metallic alloys containing tin, to be sent to neutral European countries, shall be executed from stocks maintained by us in the United Kingdom, or be executed by shipments to the United Kingdom and reshipment from there, under license to be obtained for export therefrom.

We will not execute any orders for tin plates, or tin canisters and tin boxes suitable for food packing made therefrom, or for tin foil, solder, Babbitt's metal, type metal or any metallic alloys containing tin, to be sent, either directly or indirectly, to any country or state at war with Great Britain.

We will not sell any tin plates, or tin canisters and tin boxes suitable for food packing made therefrom, or for tin foil, solder, Babbitt's metal, type metal or any metallic alloys containing tin to any person in the United States without satisfying ourselves that there is no intention on his part to export, or resell the same for exportation, to any countries in Europe other than Great Britain, France, Italy or Russia, otherwise than by shipping to the United Kingdom and reshipping from there under license to be obtained for export therefrom.

If we export any tin plates or tin canisters and tin boxes suitable for food packing made therefrom, or tin foil, solder, Babbitt's metal, type metal or any metallic alloys containing tin, to a destination outside of Europe not being in British possessions, we will, prior to or simultaneously with the shipment, give you particulars of the goods so shipped and their destination.

The Special Committee of the Metal Exchange of New York sent out a letter—signed by C. Mayer, Secretary—specifically revealing the conditions imposed by Great Britain upon tin manufacturers. The letter was occasioned by the belief that certain manufacturers were not observing the exactings required. It is as follows:

NEW YORK METAL EXCHANGE,
New York, Sept. 1, 1915.

To the Trade:

TIN.

Certain transactions coming to the knowledge of the Tin Committee lead it to believe that arrangements with the British Government governing the importation of tin are not fully understood.

Importations are permitted only for the purpose of supplying domestic requirements.

The jobber is required to use all due diligence in the carrying out of the agreement thus entered into, when selling the metal, and thereafter to stamp his invoices

with a notice calling attention to the fact that the tin is sold with the distinct understanding that it shall not be exported, but must be sold or used only for the purpose of supplying domestic requirements.

With the circular are three forms of guarantees. One to be signed by the importer, one by the manufacturer, and one by the purchaser from the manufacturer, each binding himself not to sell or trade with any countries not countenanced by the British Empire. They are almost identical in form. The first is as follows:

Issued by the NEW YORK METAL EXCHANGE.

TIN GUARANTEE

TIN His Britannic Majesty's Consul-General, New York.
 Ex. s. s. In consideration of your consenting to the delivery to us of the tin, chloride of tin, tin ore (a), specified in the margin, we,
 Packages. hereby give you the following undertaking, which shall remain in
 Weight. force so long as Great Britain is at war with any European power.
 Quality. We will not export from the United States any tin, chloride of tin, or tin ore, whether the same has been imported from the British Dominions or not, otherwise than to the United Kingdom or a British possession.

Here are exactions forced by Great Britain upon American manufacturers:

Article 1 of the rubber agreement:

"Manufacturers cannot export or sell to any one who might export crude rubber, waste rubber or reclaimed rubber except to Great Britain or a British possession. They may not sell plantation rubber even to any one in the United States."

Fourth section of the rubber agreement:

"No goods must be sold for delivery to an enemy of Great Britain . . . If through intent, carelessness, or misfortune, your goods are found in transit to Germany your permit will be canceled. . . . You should have definite agreements from every customer who is likely to export, and we would suggest the use of a rubber stamp for all orders and invoices, stating that the goods are sold with the understanding that they are not to be exported, except to Great Britain, France or Russia or to a European neutral by way of the United Kingdom or to a non-European neutral."

Article 6 of the guarantee made by purchasers of wool with the Textile Alliance:

"That no part of the merchandise subject to this agreement, nor any wool, tops, noils, or yarn produced therefrom, shall be exported to any destination from the United States of America except to Canada."

Pledge made to "His Britannic Majesty's Consul-General at New York" by manufacturers desiring to obtain tin:

"We will not export from the United States any tin, chloride of tin, or tin ore, *whether the same has been imported from the British Dominions or not, otherwise than to the United Kingdom or to a British Possession.*

"We will not export from the United States any tin, delivered by you to any dealer or other person or persons in the United States, but will use it for our own manufacturing purposes."

Marks. We will not sell the tin, chloride of tin, or tin ore (a) now delivered by you to any dealer, or other person or persons, in the United States, but will use it for our own manufacturing purposes.

Date.

(a) Strike out the words which are inapplicable.
 (421)

In regard to the impositions made by Great Britain and executed through her official representatives upon American industries, it is not only german, but urgently important, to remember that these exactions are in violation of United States laws.

Shall the United States, by submitting to impositions and requirements now made upon American manufacturers by a foreign power, establish the precedent that—for all time—she shall, whenever the expediency of a foreign policy dictates, servilely and unprotectedly submit to an interference with her trade, domestic as well as foreign, in gross violation of her own statutes?

And here are the tables of our laws:

Section 73 of the Act of February 12, 1913 (Cl. 40):

Section 73 of the Act of February 12, 1913 (Cl. 40): "That every combination, conspiracy, trust, agreement or contract is hereby declared to be contrary to public policy, illegal and void when the same is made by or between two or more persons or corporations either of whom as agent or principal is engaged in importing any article from any foreign country into the United States, and where such combination, conspiracy, trust, agreement or contract is intended to operate in restraint of lawful trade or free competition in lawful trade or commerce, or to increase the market price in any part of the United States of any article or articles imported or intended to be imported, into the United States, or of any manufacture into which said imported article centers or is intended to center."

Sherman Act of July 2, 1890:

"Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of commerce between any such Territory and another or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by fine not exceeding \$5,000 or by imprisonment not exceeding one year, or by both said punishments in the discretion of the court."

INTERFERENCE WITH COMMUNICATION

IN times of peace many thousand commercial and private messages pass every day over the cables connecting the United States and the other countries of the world. Even in war times the number of submarine telegrams is over five thousand per day. Our commercial and financial relations with the world are dependent on cables. The wires beneath the sea are our international trade arteries. Great Britain has it in her power to cut those arteries, because of certain physical facts and of geographical advantages which she possesses.

Today practically all commercial and personal telegrams from the United States to foreign countries pass through the hands of the British censor. Great Britain's right in time of war to censor dispatches is unquestioned. The International Telegraph Convention and the International Radio-Telegraph Convention, to which all the Powers are signatories, expressly grants to any government "the power to interrupt the system of international telegraphs for an indefinite period, if it judges it necessary, either generally, or only upon certain lines and for certain kinds of messages, upon the condition that it immediately advises each of the other contracting parties." (See Article VIII of the Telegraph Convention, applying also to wireless dispatches.) Great Britain has complied with the stipulations of this article. She merely exercises the same rights that the United States Government exercises today in regard to wireless dispatches.

But in actual practice the British censor has adopted and continues a policy which has proved exacting beyond the needs of war, onerous in the extreme, and one which has caused and is today causing American commerce financial losses running into millions of dollars. In many instances the action of the censor has been unreasoning, arbitrary and practically despotic. As a result, buyers of American goods in neutral countries have been and are unable to make purchases from American exporters. In important deals involving the exchange of many cables, vitally important messages in a series have been suppressed altogether. The British censor has it in his power to suppress messages for any reason, or for no reason at

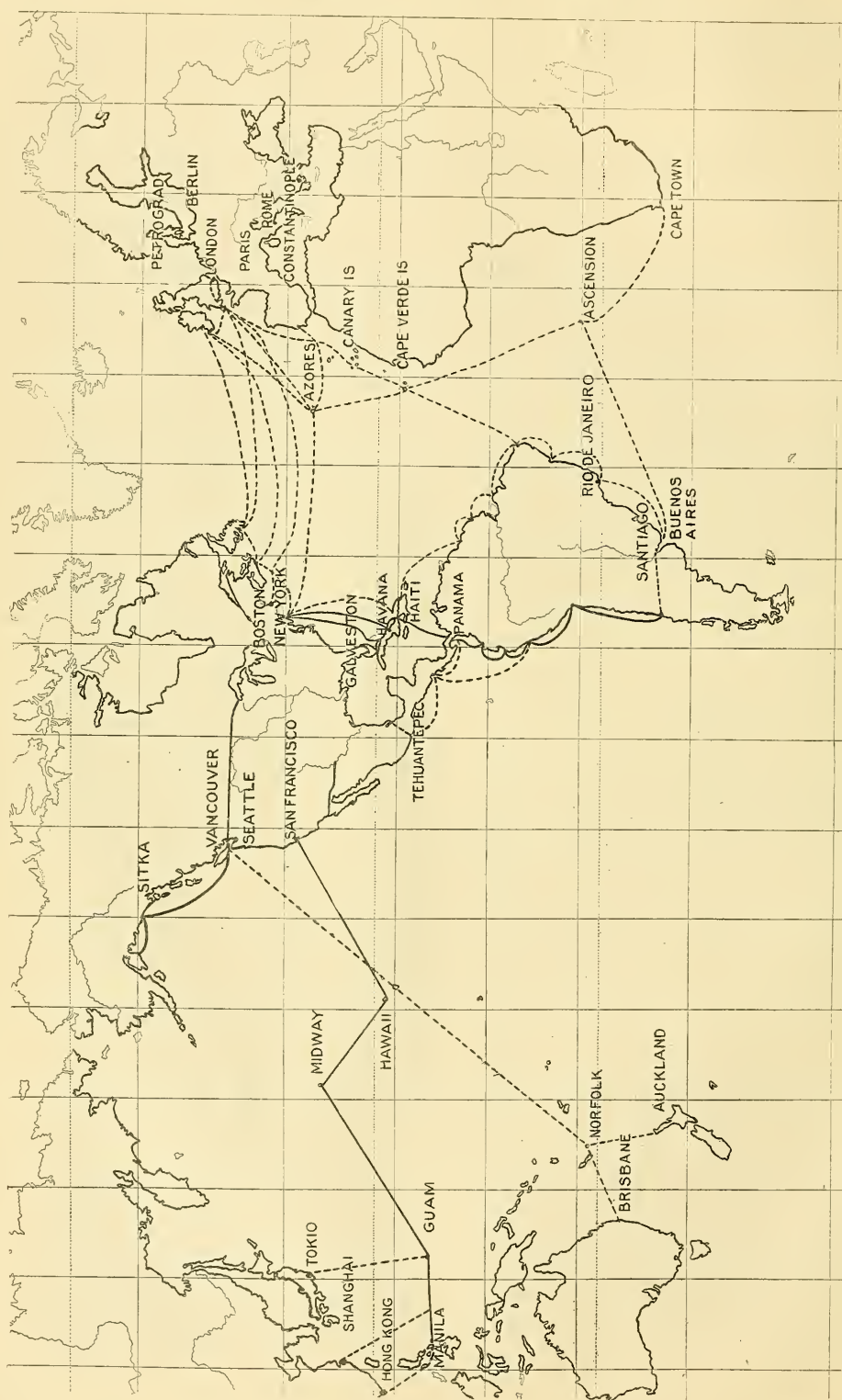
all. He does so, under the specious and spacious excuse of "war measures." He does not notify the sender of the non-delivery of stopped messages. Errors made in retransmission after passing the censor are not corrected, and the censor is not liable for damages. All corrections must be made by a private message between addressee and sender. The censor alters messages to suit himself. He cuts out words that displease him. Although all messages, other than those sent in the limited specified codes and so marked, are written in plain English, the censor, suspicious of private codes, purposely alters messages to see whether a secret code is in use.

In certain cases the contents of suppressed American commercial cablegrams to neutral countries have formed the basis for commercial propositions to the addressees from British firms.

In brief, American cables passing through the hands of the British censor, except messages between the Department of State and our envoys abroad, are at the censor's mercy. No business secrets can escape his eye.

Great Britain wields this tremendous power by reason of her control of the great cable line centers and junctions. A glance at the map on page 40, on which the chief American cable routes are indicated, will show this clearly.

The heavy lines show the only cables which terminate on American territory or in territory not belonging to or controlled by Great Britain and her allies—the only lines by means of which an American message can be depended upon to reach the foreign world. All the cables crossing the Atlantic, except the French cable to Brest, and the German cable, now out of commission, terminate in England or Ireland, or the Azores, belonging to Great Britain's ally, Portugal. On the way south, American cables reach Cuba, Porto Rico and Hayti; from Havana a line extends across Panama, along the west coast of South America, and overland to Buenos Ayres. The Atlantic coast cables of South America are all British owned. The United States Government owns the cable from Seattle to Sitka. American capital owns the cable from San Francisco to Hawaii and Manila and thence to Shanghai and Tokio. Since Shanghai is British and



Solid lines indicate cables terminating in non-British-controlled territory. Dotted lines show main cable routes through British-controlled territory.

Tokio Japanese, this cable is indicated by dotted lines from American to Allied ports.

Business with the west coast of South America is not as yet a heavy item in American trade. In the East, the lines beyond Shanghai are owned by the British, and the lines beyond Tokio by the Japanese, largely financed by British capital.

All American communications affecting our great coffee and rubber trade with Brazil must pass over British lines.

Not only commercial, but official cables, army dispatches and consular dispatches, have been held up. The British Government, upon protest from the Department of State, has "explained" interference with United States Government business, but for the financial loss suffered by our merchants no redress is available. Specific charges of loss are innumerable, and from a mass of data the following are selected:

In several cases New York merchants doing business with Greek houses assert that cablegrams between New York and Athens have been intercepted and suppressed, and that within a few days' time British firms have approached these same Greek houses with propositions exactly duplicating those contained in the suppressed American cables. One firm, which had conducted for many years a very profitable trade in dried fruits with Greece, has abandoned that trade altogether, because of British interference.

In another case, an order from a Scandinavian to a New York house for 48,000 pounds of coffee was suppressed by the British censor; the loss sustained by this firm, which otherwise has suffered severely, in this one transaction amounted to \$3,000. A grain exporting house offered a cargo of grain to a house in Denmark for \$1.07 a bushel; the British censor delayed the message and when it was finally delivered to the Danish house the price per bushel had become \$1.03. The American firm had to stand a loss of about \$10,000. An American exporting firm offered a quantity of ammunition from a manufacturer to the Russian Government; the cablegram got no further than London—but several days later J. P. Morgan & Company approached the manufacturer in the case directly and the profits in the transaction went to the credit of the official purchasing agents of the British Government.

Protests against this condition of affairs have been laid before the Department of State by organizations and individuals. The Merchants Association of New York, the Western Union Telegraph Company, the Swiss People's Bank of Berne, the American Trade Agency at Rome, Spanish cotton importers at Barcelona, Danish firms, the Chamber of Commerce at Naples, the New Orleans Cotton Exchange, the Galveston

Cotton Exchange, the Manila Chamber of Commerce, coffee exporting houses in Rio de Janeiro—these and many others have made formal complaint. These protests have been of little avail.

To a formal protest from the Swiss Government, the British General Post Office, under whose administration the direction of the censorship falls, stated that "in order to avoid the inconvenience which would have arisen from a total stoppage of communication it was decided as an *act of grace* (so underlined in the original communication made by the British Government,¹ to accept telegrams for transmission on the understanding that they were to be accepted at the senders' risk and subject to censorship by the British authorities; that is, that they might be stopped, delayed, or otherwise dealt with by the censors, and that no claim for reimbursement could be entertained."

The mere "acceptance of telegrams at the owner's risk" is "an act of grace." Only as an *act of grace*, therefore, are American exporters permitted to send telegrams which remain undelivered to merchants in Greece, while British firms later offer the same proposition to the same Greek concerns to whom the suppressed cables were addressed. Only as an *act of grace*, again, is an American grain exporter permitted to sell a cargo of grain for four cents less a bushel than he had quoted it, thereby sustaining a loss of \$10,000. Only an *act of grace*, is the proposition of an American firm to Russia, Great Britain's ally, suppressed, and the transaction diverted into the hands of J. P. Morgan & Company.

The extent of the loss caused by this *act of grace* is not readily computable, but in known specific cases it already amounts to many millions of dollars.

Specific instances of interference which have formed the basis of representations from the Department of State to Downing Street will illustrate England's absolute control of American commercial messages to neutral European countries and Brazil.²

On November 15, 1914, the director of the Swiss People's Bank at Berne, through the American Minister to Switzerland, Pleasant A. Stovall, complained to the Department of State that telegrams to New York from Swiss financial institutions were never delivered. Messages between Berne and New York could be routed in several ways: overland to Brest and thence by the French cable (Compagnie Francaise des Cables Telegraphiques) to New York, passing through the French censor's hands at Brest; or overland and by cable to London, thence to an Irish or English cable station,

¹See Department of State Publication, "Diplomatic Correspondence with Belligerent Governments," p. 77.

²Ibid, p. 93.

thence to Newfoundland or Nova Scotia and thence to New York, passing through the British censor's hands at London. It is impossible to reach Switzerland without passing the British or the French censor. In the case of the Swiss People's Bank, the messages never got beyond the censor. And nothing could be done about it.

The same conditions govern communications with Italy, Greece and all Mediterranean countries. It is impossible to cable these countries without encountering the French or British censor. He must read all messages, and he can and does suppress at will, without notification of stoppage. In case of protest, he blandly answers that he has no records of his activity,¹ and that is all that there is to it. If he chooses to hand a message to a British competitor of an American firm, he can. He has no records. Cable communication is permitted only as an *act of grace*, anyway.

The particular case in which the British censor was unable to trace suppressed messages illustrates our difficulties in handling a valuable part of our South American trade—Brazil's coffee and rubber. Nine telegrams between March 12, 1915, and April 20th, from L. C. Fallon & Company, New Orleans, routed over the Postal Telegraph Company to New York, thence to the Azores by the Commercial Cable Company, thence to Rio de Janeiro by the Western Pacific Cable Company, a British concern, never reached their destination. Another telegram from C. A. Fairchild & Co., New York, to the same address, "Ornstein, Rio de Janeiro," also vanished. "Ornstein" is a German appearing name. These cables were probably promptly sent to the London General Post Office. One of them was found. The rest vanished as utterly as though they had been smoke. There were no records, nothing—and no liability.

The following items serve to show American dependence on British lines in the East: On August 21st and August 22, 1914, two code telegrams from the Colonel commanding the United States forces at Tientsin to the Commanding General in the Philippines were detained by the British censor at Hong Kong. The messages were signed "Tilson" and "Rowell," and despatched to a code address. The decoding of this address was a matter of a moment; but not a moment's effort was made. The telegrams were suppressed. And for two days, the commander of the United States forces in China was left out of touch with his superiors in the Philippines because of the act of the British censor.

On another occasion, in December, 1914, a code message from the American Minister to China at Peking, Paul S. Renisch, to the American Consul-General in the British pos-

session at Hong Kong, G. E. Anderson, was held up—though subsequently allowed to pass.

In both instances the reason advanced was the use of a cipher, not permitted by the regulations laid down by the British. The United States Government accepted the regulation, but the incident illustrates the sway of the British censor and the dependence of this nation upon Great Britain for telegraphic communication with the world. Our direct relations with our possessions in the East are dependent upon a single line, which is crossed by the British line from Vancouver to Australia and New Zealand. The point of junction of these two lines, readily found, offers the exact location at which to intercept communications with Manila, if this was not done to the island of Vancouver.

If occasion were to arise, the United States could be immediately isolated. All our trans-Atlantic lines pass through British territory or that of her allies. The German cable is out of commission. The French cable might or might not be available. Panama, Porto Rico, Hawaii and the Philippines could be detached from us by a few snaps of the cable cutter.

Wireless telegraphy and telephony are not so readily blocked. But as a means of communication they are uncertain, subject to weather conditions, and, above all, they are non-secretive. Privacy in communication is impossible; theoretically attainable in slight measure by the use of codes, it is never safe.

Yet in view of the present circumstances and the losses so far sustained by American business firms, the project of allowing greater freedom in the commercial uses of the wireless stations might seem advisable. Within a short time, in addition to the wireless routes already in use, direct communications between the Cape Cod coast and Norway will be established. By the exercise of a judicious but intelligent censorship, by granting the use of specified codes, American firms doing business with Europe might be assured of greater freedom and convenience in their communications with their European correspondents. Despite protests innumerable, the British Government has been unwilling to grant to reputable American merchants and associations privileges which they should have and reasonable immunity from the activities of a not too intelligent censor.

A study of the map of undersea communications, makes one thing convincingly clear: Great Britain not only dominates trade at sea, she practically controls all means of quick communication between the United States and Europe, Asia, Africa, Australia and South America. We are completely at the mercy of the British Government in this respect.

¹"Diplomatic Correspondence with Belligerent Governments," page 94.

VII

OUR LARGER INTERESTS

WILL the positions which the present Administration has taken, during the progress of the European war, with reference to maritime warfare, bear inspection in the cool light of the best interests of the United States? To raise the question is to make no reflection upon the patriotism of the Administration. Whatever may have been the ruling motives which determined them, there is some reason to believe that, from one cause or another, the Government of the United States has taken a series of positions which, when scrutinized in the light of commercial and political possibilities of the future, work precisely the wrong way, so far as the interests of America are concerned.

Consider:

Should the United States ever become involved in war, the war would be one of defense on our part. The American people would not sanction a war of aggression abroad. No one contemplates aggression. We entertain no ideas of aggrandizement that suggest an aggressive policy. The most pronounced advocates of a big army and a big navy dare not urge more than a policy of "preparedness" against attack.

What, then, would be the effect of the policies of the present Administration upon the ability of the United States to defend itself in a foreign war?

The foreign wars in which we might possibly become involved fall into the following general classes:

(1) A war with some other Power or Powers on the American Continent.

(2) A war with a European Power or a European alliance.

(3) A war with an Asiatic Power or an Asiatic alliance.

(4) A war with allied European and American, allied European and Asiatic, or allied American and Asiatic Powers.

1. Suppose we were engaged in war with another American Power.

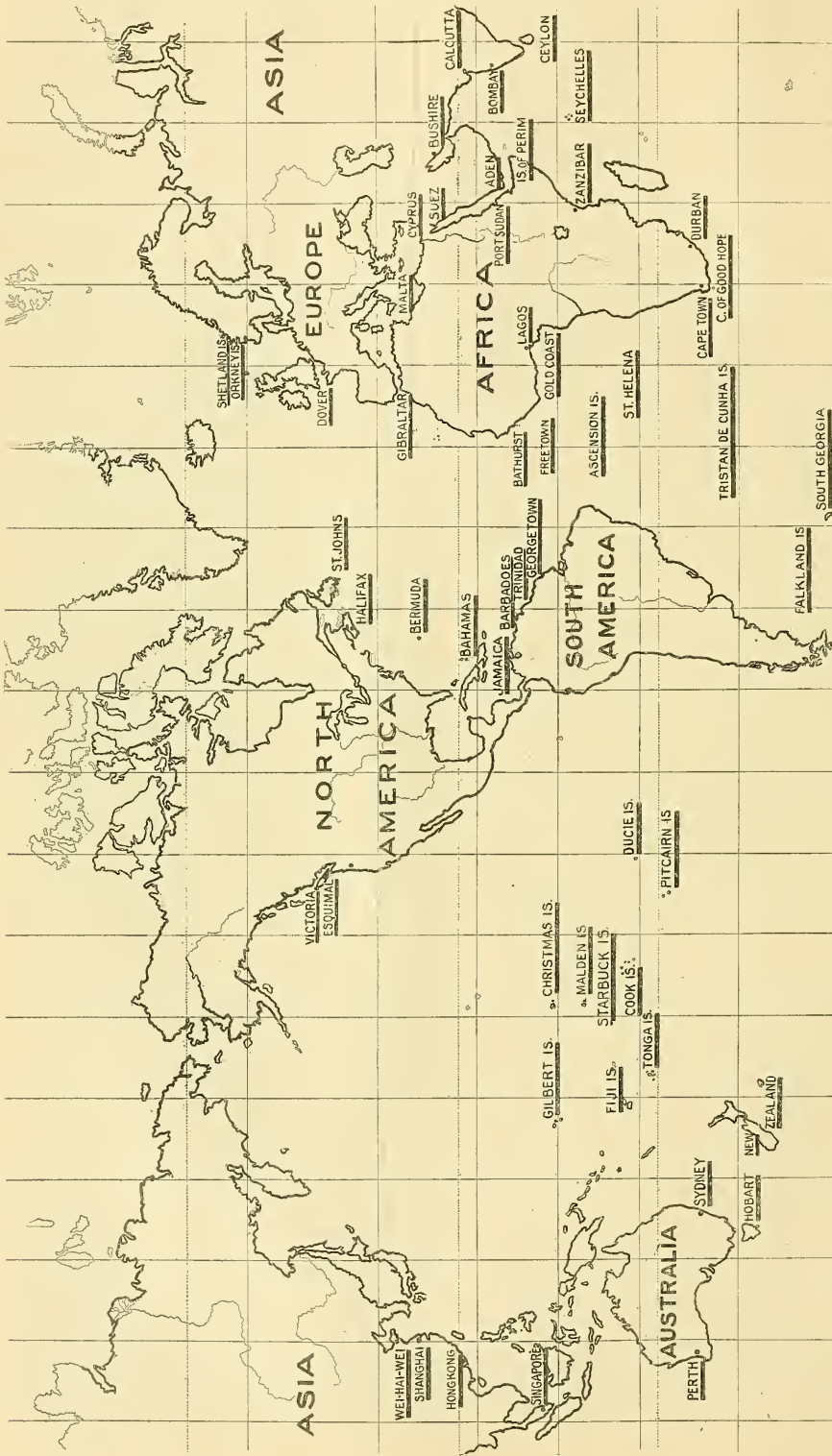
We have taken the ground that it is legitimate for the manufacturers of any nation to supply the armies of another nation with arms and ammunition. We have gone further than this; we have taken the position that for a Power to deny the armies of another Power arms and ammunition would be

unneutral; that is to say, that it is the duty of the people of one country to supply the armies of a belligerent Power with munitions of war. In a war between the United States and another American Power, it would consequently be the duty of European and Asiatic arms and ammunition manufacturers to supply our opponent with weapons with which to fight against us. But this is opposed to the interests of the United States.

2. The case would be still worse in the event of a war between the United States and a European Power. Under the precedents established by Mr. Wilson's Administration, it would be the duty of all European and Asiatic manufacturers to furnish arms and ammunition to the Power combating us. True, it would be their duty likewise to supply us with arms and ammunition. But these would never be delivered to us. For, while the manufacturers of the various European and Asiatic countries would have no difficulty in transporting munitions of war overland to the army and navy of the European Power at war with us, they could by no means send them across the seas. We have acceded, practically, to the proposition that a blockade may be laid anywhere; it is no longer necessary, under our admissions, that a blockade be laid before particular ports or that it be actually maintained by ships. A torpedo boat or two in the Strait of Gibraltar, a few mines in the English Channel and the North Sea, and the Atlantic seaboard of the United States would be in a state of blockade. Not only no ammunition, but nothing else, could get through. We should have all the ammunition makers of Europe and Asia furnishing our opponent with guns and shells, while we ourselves would be thrown upon our own resources.

3. In the event of a war with an Asiatic Power, that Power could procure overland from Europe all the munitions of war she desired, and it would be the duty of European Powers to furnish her with these instruments of combat. But it would be opposed to the interests of the United States to have Japan, for instance, supplied from Europe with arms to be used against us.

4. In the event of an alliance between European and Asiatic Powers—and this is precisely the combination of Powers most likely to envisage us—the situation would



The underscored names are those of British naval stations showing how Great Britain dominates our Atlantic seaboard and controls the commercial routes of the world.

be far worse. All the arms manufactories in the rest of the world would be combined against the United States. We should probably not be able to get anything overseas into our ports.

The biggest navy we shall ever, by any possibility, build would be none too big to guard our own extensive coasts. We have—or Mr. Wilson's Administration has—made the submarine impossible as a weapon of defense, to say nothing of attack. Otherwise by far the most potent weapon of maritime defense thus far invented, we have declared it an illegitimate weapon. The submarine, we say, must visit and search before it acts. But a submarine cannot visit and search; a single shot from the lightest gun of a merchantman can sink a submarine.

Furthermore, we have taken the position that a neutral vessel carrying ammunition may not be sunk if it happens to have a neutral citizen or subject on board.

The truth of the matter is there is nothing which more vitally concerns the well-being, indeed the very existence, of the United States, more than the maintenance of the laws of war at sea as enunciated by the Declaration of London. Being isolated alike from Europe and Asia, our great defense is the sea. We have little interest in land warfare, but we have the deepest interest in sea warfare. And it is not the naval battles, spectacular as these are, that concern us. For us the important matters are the laws of contraband, blockade and coast defense.

The rules concerning blockade in which we are most interested are those laid down in articles 1, 2 and 18 of the Declaration of London, 1909:

1. A blockade must not extend beyond the ports and coasts belonging to or occupied by the enemy.

2. In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding, must be effective—that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coast line.

18. The blockading forces must not bar access to neutral ports or coasts.

The British Order in Council of March 11, while not using the word blockade, practically declared a blockade of the German coasts and of the coasts of the neutral countries contiguous to Germany. As a matter of fact, there is no blockade at all. By the simple expedient of planting mines in the Strait of Dover and between the Orkney and Shetland Islands and the coast of Norway, neutral ships are compelled to enter British ports in order to obtain pilots through the mine fields. The waters north of Scotland are patrolled by small boats. Battleships and cruisers are safe in British harbors, keeping out of the way of German submarines.

Contraband is defined by the British memorandum attached to the report of the

London Conference on the Rules of Warfare at Sea as "neutral property on board ship on the high seas or in the territorial waters of either belligerent which (1) is by nature capable of being able to assist in, and (2) is on its way to assist in the naval or military operations of the enemy." When these two elements are combined, the capture of the goods by a belligerent is permissible. By the second simple expedient of considering that all merchandise on the way to Germany, or to countries adjacent to Germany, is capable of assisting in the naval or military operations of Germany, and by the further assumption that it is on its way actually to assist in such naval or military operations, the whole distinction between contraband and innocent goods has been obliterated by Great Britain.

In consequence of this new kind of blockade, and of the new, all-embracing definition of "contraband," our entire commerce to and from Europe is surrendered to the control of any Power which has a predominant naval strength or which has a predominant geographical position.

Against no country could these admissions work more harm than against the United States, separated as it is from Europe by two oceans, and, moreover and especially, commanded as are its coasts by the British naval stations, whose iron ring around us must appall the stoutest heart that contemplates the map.

While the Government of the United States allows its people to be plundered by the new definition of contraband enunciated by Great Britain, it takes, with regard to goods of an actual and always admitted contraband character, namely, arms and ammunition, a position of peculiar contrast to its meek admissions with regard to goods heretofore always considered innocent.

There has been some difference of opinion among nations and among authorities on international law as to the duty of a neutral government to prevent its subjects engaging in contraband trade, some contending that such a duty exists; others, including the United States, holding that the neutral State is under no duty to stop contraband exports, the punishment being in the hands of the belligerent adversely affected thereby. But probably never has a nation undertaken to protect its citizens in the contraband trade and to claim (what the United States Government claimed in its recent notes to Austria) that contraband trade is legitimate, and that the United States Government has no control over it, or that the attempt to exercise such control would be unneutral, and therefore impermissible.

The net result of the positions we have taken, or acceded to with very mild protests, is the preposterous one that, while the Gov-

ernment of the United States has no control over its own trade, even its contraband trade, with belligerents, any belligerent that is physically able to exercise it enjoys complete control over *our* trade, even in the most innocent articles.

Take again our position with regard to the activity of submarines. We assert that a submarine may not sink merchant vessels belonging to the enemy without "visit and search." But visit and search is a right and not a duty; a right, moreover, the assertion of which on the part of Great Britain the United States combatted for many years, finally going to war largely in its contention against it. **Visit and search, furthermore, applies only to neutral vessels.** It was an unheard of thing until the United States Department of State invented it, that a belligerent was compelled to visit and search an enemy ship before dealing with it. Visit and search was a privilege claimed with regard to a neutral vessel; never a duty incumbent upon a warship with regard to a belligerent vessel. Its purpose was that of ascertaining whether the suspected craft carried contraband. But there is no longer a necessity for that, because all vessels leaving our shores for Europe carry contraband—under the new all-inclusive definitions.

We insist also that all merchant ships carrying contraband shall be free from attack until after it is ascertained that no neutral citizen or subject is on board. We have asserted that the life of this hypothetical neutral citizen or subject, who may be or may not be aboard, and who really has no right to be on board, is more vital than the right of the submarine commander to defend the lives of the soldiers of his country who are beyond all question in the trenches where they will be attacked by the ammunition which the spared ship is carrying.

Now no question is raised at this point regarding the justice of these claims. It is merely pointed out that their effect would be utterly to destroy the efficiency of any submarines of our own commission to defend our coast against attack or to prevent ammunition from reaching any enemies we might have.

Considerable sentiment has been developed in the United States in favor of a larger army and navy by way of prepared-

ness for future wars. But the increase of our army to half a million men and the doubling or tripling of the size of our navy will not serve to overcome the disadvantage we shall labor under in consequence of the precedents we are allowing Great Britain to pile up against us in her interpretation of the laws of the sea, and the precedents we are piling up against Germany in our interpretation of the laws of the sea.

We shall probably never send an army abroad, at least not to the other hemisphere. Our soldiers will stay at home to defend our own territory. But suppose a European or an Asiatic enemy obtains a foothold in America, or an American Power undertakes to invade us; his munitions of war, in his own merchant ships even, cannot be attacked by our submarines, provided he brings a neutral passenger with him.

And as for our great navy, what good is a great navy unless it be the greatest navy? Great Britain maintains the right to have a navy equal to the sum of the two next largest navies in the world, plus ten per cent. Is it proposed to build a navy greater than the British navy? Is it for a moment believed that England would permit that? And even if England were to permit it, one need only take a glance at a map of the world on which is displayed Britain's widely-scattered and artfully-disposed naval stations to realize how very much greater indeed an American navy would have to be to hope to cope successfully even with a British navy considerably smaller. But, of course, our navy would not go abroad on aggressive expeditions. Its primary work would be to defend our territory—work that a navy of submarines could better do, if we had not ruled submarines out of warfare. We might, indeed, do some blockade work, but it is we ourselves who would be the chief victims of the blockade. Great Britain, for instance, by her control of the narrow passages through which the commerce of the world is forced to pass, could practically, without moving a ship, cut us off from all connection with the rest of the world. Because, remember, everything is contraband now, and a blockade may be thousands of miles away from the ports against which it is directed. And not England alone, but any other European naval Power could cut us off from Europe; while in conjunction with an Asiatic naval Power our enemy could absolutely close our ports.

VIII

LIST OF SHIPS DETAINED

NOTE.—It is impossible, for reasons explained on page 22, to obtain anything like a full list of ships detained and cargoes seized by Great Britain on their voyages between the United States and other neutral countries, but the following list of carefully verified cases may serve to illustrate the methods by which the British Government is strangling American commerce.

The first list includes the cases of 155 vessels brought into British ports or otherwise detained for examination. Of these 40 were forced to discharge their cargoes, which were held for prize court proceedings. Thirty more were subjected to protracted detention, at great loss. One American vessel carrying oil to Copenhagen was run aground by the English prize crew aboard her off the coast of Scotland.

It will be noted that this list does not include cases like that of the *WILHELMINA*, which, when seized by the British, was bound for Hamburg with an innocent cargo, and the *DACIA*, which was seized by the French navy under British instructions.

Nor does this list include the vessels, 273 in number, recorded by the Government of the United States in an appendix to its note of October 21st, as having been detained in the port of Kirkwall alone, between March 11th and June 17th. The Government list is appended, bringing this merely illustrative record of ships detained up to a total of 428:

LIST OF SHIPS DETAINED

- S.S. KUMERIC, British.
Sailed from Galveston, July 17, 1914, (via Newport News, July 24), for Bremen.
Cargo—49,000 bushels of grain.
Taken to Queenstown, August 2. Detained at Liverpool, August 19.
- S.S. BERWINDMOOR, British.
Sailed from New Orleans, July 21, 1914, for Rotterdam.
Cargo—196,000 bushels of grain.
Diverted to Falmouth, August 5. At London, August 21.
- S.S. CAMPANELLO, British.
Sailed from New York, July 30, 1914, for Rotterdam.
Sent to Cardiff, August 12. Detained.
- S.S. SPENSER, British.
Sailed from New York, July 31, 1914, for Rotterdam.
Sent to Liverpool.
- S.S. SAINT HELENA, British.
Sailed from Galveston, July 16, 1914 (via Norfolk, Virginia, July 24), for Bremen and Hamburg.
Cargo—Phosphate rock, wheat and cotton.
Diverted to Manchester. Cargo seized August 12. Phosphate rock released as well as part of cotton.
Large quantity of cotton and the wheat not released, including 50 bales of cotton shipped by Alexander Spunt & Company, of Houston, Texas, and Bremen; claimed belonging to neutral subjects and as such not subject to seizure, also on ground that contract of sale between American citizens dated May 8, 1914.
These goods, including wheat, condemned in Prize Court.
- S.S. PENLOVER, British.
Sailed from Galveston, July 18, 1914, for Rotterdam.
Cargo—264,000 bushels of grain.
Diverted to Falmouth and ordered to London, August 15.
- S.S. KALOMO, British.
Sailed from New Orleans, July 24, 1914, for Rotterdam.
Cargo—64,000 bushels of grain.
Detained at Falmouth. At London, August 15.
- S.S. ANDIJK, Dutch.
Sailed from New Orleans, July 30, 1914, for Rotterdam.
Cargo—136,000 bushels grain.
Sent to Falmouth for orders. Arrived at Rotterdam, August 16.
- S.S. NORUEGA, Norwegian.
Sailed from Galveston, July 30, 1914, for Christiania.
Cargo—40,000 bushels grain.
Diverted to Falmouth. Arrived at Christiania, August 26.
- S.S. ORTERIC, British.
Sailed from Galveston, July 27, 1914. (Newport News, August 4.)
Detained at Queenstown, August 17. Arrived at Liverpool, August 21. Cargo for Bremen and Hamburg seized.
- S.S. NITONIAN, British.
Sailed from New Orleans, July 31, 1914, for Antwerp.
Cargo—142,000 bushels grain.
Diverted to Falmouth. Arrived at London, August 22. At Antwerp, September 5.
- S.S. GLENFINLAS, British.
Sailed from New Orleans, August 1, 1914 (via Norfolk, August 7), for Rotterdam.
Cargo—108,000 bushels grain.
Diverted to Falmouth, August 26. At London, September 1.
- S.S. ST. DUNSTAN, British.
Sailed from Galveston, August 4, 1914, for Rotterdam.
Cargo—122,400 bushels grain.
Diverted to Cork for orders. At Liverpool, August 27. At Manchester, September 5.
- S.S. MIRAMICHI, British.
Sailed from New York, July 3, 1914 (via Galveston, July 23), for Rotterdam.
Cargo—16,000 bushels of wheat (part of cargo) shipped by Muir & Company for Rotterdam to be delivered to George Fries & Company in Colmar, Germany, and Gebrueder Zimmermann & Company, Mannheim, Germany. Vessel not permitted to proceed to Rotterdam. Taken to Eastham and cargo consigned to Germany seized.
Prize Court decided that goods seized were property of the American claimants and not subject to seizure.
Ordered released to claimants (December, 1914).
- S.S. KLOSTERFOS, Norwegian.
Sailed from New York, August 28, 1914, for Christiania.
Cargo—Flour in barrels.
Vessel stopped and boarded by British officers off the north coast of Scotland and ordered to Aberdeen.
Held several days until neutral ownership of cargo was established. Arrived at Christiania, September 17.
- S.S. VITALIA, Norwegian.
Sailed from New York, August 19, 1914, to Rotterdam.
Cargo—Meat.
Detained at Falmouth, September 7.
- S.S. LORENZO, American, (New York and Porto Rico Line).
Chartered on August 2, 1914, by Gans S.S. Line.
Sailed from New York, August 6, 1914, for Buenos Ayres.
Cargo—Coal.
Captured by British and taken to St. Lucia, September 12.
October 16—Cargo condemned.
October 30—Vessel condemned.
- S.S. HEINA, Norwegian.
Sailed from Philadelphia, August 7, 1914, for St. Thomas.
Cargo—Coal.
Seized September 13, off St. Thomas, by French cruiser CONDE.
Detained six months, released at Fort de France, March 20, 1915, reached New York, April 15, 1915.

- S.S. VESTFOS, Norwegian.
Sailed from New York, August 28, 1914, for Christiania.
Cargo—~~Flour in barrels~~.
Stopped and boarded by British officers.
Taken to Kirkwall. Left September 14. Arrived Christiania, September 17.
- S.S. RYNDAM, Dutch (Holland-America Line).
Sailed from New York, September 8, 1914, for Rotterdam.
Seized by British warship and brought into Cork Harbor, September 17. Released September 20, at Queens-town.
Again held up and ordered by British cruiser (September 21) to enter Falmouth. Arrived at Rotterdam, September 24.
- S.S. AMSTELDYK, Dutch (Holland-America Line).
Sailed from Philadelphia, September 10, 1914, for Rotterdam.
Captured by British cruiser and taken to Queenstown, September 25. Released. Arrived at Rotterdam, October 12.
- S.S. ROTTERDAM, Dutch.
Sailed from New York, September 15, 1914, for Rotterdam.
Cargo—~~Copper~~.
Shippers: American Smelting and Refining Company.
United Metals Selling Company.
American Can Metal Company.
L. Vogelstein & Company.
Norfolk Smelting and Refining Company.
Seized September 26. En route while copper was made conditional contraband (absolute contraband only since October 29).
Copper bought by Great Britain.
Arrived Rotterdam, October 12.
- S.S. SLOERDIJK, Dutch.
Sailed from New York, September 9, 1914, for Rotterdam.
Cargo—~~Copper~~.
Shippers: American Metal Company, Ltd.
L. Vogelstein & Company.
Seized September 26. En route while copper was made conditional contraband (absolute contraband only since October 29).
Copper bought by British Government.
Arrived Rotterdam, October 6, 1914.
- S.S. POTSDAM, Dutch.
Sailed from New York, September 22, 1914, for Rotterdam.
Cargo—~~Copper~~.
Shippers: American Smelting and Refining Company.
United Metals Selling Company.
American Metal Company, Ltd.
L. Vogelstein & Company.
Seized October 9.
Copper bought by British Government.
Arrived Rotterdam, October 15.
- S.S. WESTERDYK, Dutch.
Sailed from Baltimore, September 21, 1914, for Rotterdam.
Cargo—~~Copper~~.
Shipper: American Smelting and Refining Company.
Seized October 9.
Copper bought by British Government.
Arrived Rotterdam, October 18.
- S.S. BETA, Swedish.
Sailed from Philadelphia, September 23, 1914, for Helsingborg and Oscarshamn.
Detained and taken to Kirkwall for examination, October 12.
Arrived at Helsingborg, October 21.
- S.S. AQUILA, Norwegian.
Sailed from New York, September 23, 1914, for Christiansand, Korsoer and Copenhagen.
Detained at Kirkwall, October 12, for examination.
Arrived at Copenhagen, October 24.
- S.S. NICHOLAS CUNEO, Norwegian.
Sailed from New York, September 26, 1914, for Christiania.
Detained and taken to Kirkwall for examination, October 12.
Arrived at Christiania, October 19.
- S.S. NOORDAM, Dutch (Holland-America Line).
Sailed from New York, October 6, 1914, for Rotterdam.
Cargo of about 13,000 tons consigned to Dutch Government.
~~Wheat, flour, foodstuffs~~ diverted to Falmouth, October 15.
- S.S. LEANDER, Norwegian.
Sailed from New York, September 25, 1914, for Copenhagen.
Cargo—~~Grain~~.
Arrived at Kirkwall, October 16.
Detained for general inspection.
Left October 17.
- S.S. BRINDILLA, Under American Flag.
Sailed from Bayonne, New Jersey, on October 13, 1914.
Cargo—~~Kerosene~~ for Alexandria, Egypt.
Steamer bought by Standard Oil Company from Riedermann Line and transferred from German to American registry under Underwood Amendment to the Panama Canal Act of 1914.
Seized by British cruiser CARONIA just outside three-mile limit off Sandy Hook, October 18, and taken to Halifax, Nova Scotia. Submitted to Prize Court.
Released. Left Halifax, October 30.
- S.S. DANIA, Danish (Scandinavian-American Line).
Sailed from Philadelphia, September 26, 1914, for Copenhagen.
Cargo—~~General~~.
Detained about one week at Kirkwall.

- S.S. JOHN D. ROCKEFELLER, American.
Sailed from Philadelphia, September 27, 1914, for Copenhagen, Denmark.
Captured and taken to Orkney Islands. At Kirkwall, October 17.
Released upon protest by United States after considerable delay.
- S.S. PRINZ DER NEDERLANDEN, Dutch (Royal Dutch West India Mail).
Sailed from New York, September 4, 1914, for Havre and Amsterdam by way of West Indian and Venezuelan ports.
Taken at Falmouth on October 21. Arrived at Amsterdam, October 26.
- S.S. SAN, American, oil tank (Sun Oil Company, Philadelphia).
Sailed from Philadelphia, October 8, 1914, for Amsterdam.
Diverted to Falmouth and released on October 25, at request of American Government. Arrived at Amsterdam, October 29.
- S.S. MARENGO, British.
Sailed October 10, 1914, for Sweden.
Cargo—Copper.
Shippers: L. Vogelstein & Company.
Held at Hull, October 25.
- S.S. ASCOT, British.
Sailed from New York, October 10, 1914, for Genoa.
Cargo—Copper. Consigned to order, but intended for delivery to Brown, Borari & Company, in Baden, Switzerland.
Shippers: American Smelting and Refining Company 450 Tons
United Metals Selling Company..... 500 "
American Metal Company, Ltd..... 300 "
L. Vogelstein & Co..... 50 "
Norfolk Smelting and Refining Company 40 "
Total 1,340 "
Held at Gibraltar, October 26, and seized.
To Prize Court.
- S.S. SAN GIOVANNI, Italian.
Sailed from New York, October 14, 1914, for Naples.
Cargo—Copper.
Shippers: American Smelting and Refining Company.
Held at Gibraltar, October 26. Cargo suspected to be intended for re-export to Germany.
Arrived Naples, November 5.
- S.S. REGINA D'ITALIA, Italian.
Sailed from New York, October 15, 1914, for Naples and Genoa.
Cargo—Copper. 200 tons consigned to order, but intended for delivery to U. Vedorelli, Milan, Italy.
Seized on October 26, at Gibraltar, and held for Prize Court. Cargo suspected to be intended for re-export to Germany.
Arrived Genoa, November 11.
- S.S. JOHN D. ARCHIBALD, American Tank Steamer (Standard Oil Company).
Sailed from New York, September 23, 1914, for Italy.
Cargo—Oil.
Held up by French cruiser and convoyed to Antibes, France.
Detained two days pending decision as to whether cargo was contraband.
Finally released and allowed to proceed.
- S.S. PROSPER III, Norwegian.
Sailed from New York, October 3, 1914, for Copenhagen and Gothenburg.
Cargo—Copper. 1,343,895 pounds of copper, valued at \$166,649 for Copenhagen; 246,361 pounds, valued at \$30,559 for Gothenburg; also foodstuffs and crude rubber. Arrived at Leith, October 27.
Detained at Scottish port and placed before the Prize Court, copper being suspected for re-export to Germany.
Arrived at Copenhagen, November 12.
- S.S. SECURITY, American (Standard Oil Company Tug).
On or about October 27, 1914, boarded and searched at St. John, N. B., by Canadian soldiers, who detained three German members of the crew.
Upon protest of Captain, men were released, but not allowed to leave Canada.
- S.S. TYR, Norwegian.
Sailed from New York, October 29, 1914, for Sweden.
Cargo—Copper.
Shippers: United Metals Selling Company.
L. Vogelstein & Company.
Held at Glasgow, November 2.
Arrived Gothenburg, December 17.
- S.S. FRANCISCO, British.
Sailed from New York, October 17, 1914, for Sweden.
Cargo—Copper.
Shippers: L. Vogelstein & Company.
Held at Hull, November 2.
- S.S. ULLER, Norwegian.
Sailed from Savannah, Georgia, October 26, 1914, for Gothenburg.
Cargo—Cotton.
Detained for inspection at Kirkwall and allowed to proceed.
- S.S. ITALIA, Italian.
Sailed from New York, October 24, 1914, for Italy.
Cargo—Copper.
Shippers: American Smelting and Refining Company.
United Metals Selling Company.
Norfolk Smelting and Refining Company.
Held at Gibraltar, November 8.
- S.S. VERONA, Italian.
Sailed from New York, October 24, 1914, for Naples, Genoa, and Palermo.
Cargo—Copper.
Shippers: American Smelting and Refining Company.
United Metals Selling Company.
Held at Gibraltar, November 8.

- S.S. PALERMO, Italian.
Sailed from Boston, October 20, 1914, to Naples and Genoa.
Cargo—Copper.
Shippers: American Metal Company, Ltd. 300 tons.
200 tons of copper consigned to order, but intended for Schweizer Metallwerke, Thonne, Switzerland.
Held at Gibraltar, November 2. To Prize Court.
Arrived November 7, at Naples.
- S.S. SAN GUGLIELMO, Italian.
Sailed from New York, October 21, 1914, for Naples.
Cargo—Copper.
Shippers: United Metals Selling Company.
Held at Gibraltar, November 8.
- S.S. DUCA DI GENOVA, Italian.
Sailed from New York, October 17, 1914, for Naples and Genoa.
Cargo—Copper.
Shippers: American Smelting and Refining Company.
Held at Gibraltar, November 8.
- S.S. ANTARES, Norwegian.
Sailed October 22, 1914, for Sweden.
Cargo—Copper.
Shippers: United Metals Selling Company.
L. Vogelstein & Company.
Held at Liverpool.
Arrived at Ardrossan, November 9, for Gothenburg.
- S.S. KROONLAND, American.
Sailed from New York, October 15, 1914, for Italy.
Cargo—Copper and rubber.
Copper Shippers: American Smelting and Refining Company.
United Metals Selling Company.
Held November 8, at Gibraltar.
Ordered before Prize Court.
Arrived Naples, November 11.
- S.S. PLATURIA, American (entered under American Registry in October, 1914, Standard Oil Company).
Belonged formerly to Deutsch Amerikanische Petroleum Gesellschaft (controlled by Standard Oil Company).
Sailed from New York, October 5, 1914, for Aarhus, Denmark.
Cargo—Illuminating Oil.
Seized and taken to Stornoway, Lewis Islands, Scotland.
- S.S. KIRUNA, Swedish (Scandinavian-American Line)
Sailed from New York, October 25, for Swedish ports.
Cargo—General.
Detained four days at Kirkwall.
- S.S. EUROPA, Italian (La Veloce Line).
Sailed from New York, October 28, 1914, for Naples and Genoa.
Cargo—Copper.
Shippers: American Smelting and Refining Company.
Detained at Gibraltar, November 9.
Alleged contraband. Arrived at Naples, November 13.
- S.S. BJORNSTJERNE BJORNSON, Norwegian (Gans S.S. Line).
Sailed from New York, October 28, 1914, for Copenhagen.
Cargo—General.
Taken into Kirkwall, November 10.
Left Kirkwall, November 15.
Ordered to Leith, November 16.
Cargo discharged and seized, December 21.
Steamer detained till May 25, 1915.
- S.S. FRIDLAND, Swedish.
Sailed from New York, October 28, 1914, for Copenhagen.
Cargo—General, including meat.
Taken into Kirkwall, November 10.
Left Kirkwall, November 27.
Ordered to Newcastle, November 29.
Cargo discharged, January 5, 1915.
Steamer detained till early in May, 1915.
- S.S. IDAHO, British.
Sailed from New York, October 24, 1914, for Sweden.
Cargo—Copper.
Shippers: L. Vogelstein & Company.
Held at Hull, November 10.
Left Hull, November 30, for New York.
- S.S. PERUGIA, British.
Sailed from New York, November 8, 1914, for Italy.
Cargo—Copper.
Shippers: United Metals Selling Company.
Held at Gibraltar, November 13.
- S.S. FRAM, Norwegian (Gans S.S. Line).
Left Charleston, South Carolina, October 22, 1914, for Danish ports.
Cargo—Cotton.
Taken into Aberdeen, November 13. Ordered to Hull.
Left Newcastle, December 8.
Arrived at Nyborg, December 18.
- S.S. JOS. W. FORDNEY, American (American Exporters' Line).
Sailed from New York, November 7, 1914, for Copenhagen.
Cargo—General.
Taken into Falmouth and detained two days, then allowed to proceed.
- S.S. TAURUS, Norwegian.
Sailed from New York, November 1, 1914, for Italy.
Cargo—Copper.
Shippers: United Metals Selling Company.
Held at Glasgow, November 13.

- S.S. TABOR, Norwegian.
Sailed from New York, October 26, 1914, for Italy.
Cargo—Copper.
Shippers: United Metals Selling Company.
Norfolk Smelting and Refining Company.
Held at Gibraltar, November 13.
To Prize Court.
Left Gibraltar, November 29.
- S.S. ALFRED NOBEL, Norwegian (Gans S.S. Line).
Sailed from New York, October 20, 1914, for Copenhagen.
Cargo—General, including meat.
At Lerwick, November 7.
Left Lerwick, November 14.
Ordered to Liverpool, cargo discharged, and seized November 17.
Prize Court.
Released May 13, 1915.
- S.S. TORONTO, British.
Sailed from New York, October 31, 1914, for Sweden.
Cargo—Copper.
Shippers: L. Vogelstein & Company.
Held at Hull, November 15.
- S.S. SIF, Norwegian.
Sailed from New York, October 30, 1914, for Gothenburg.
Cargo—Copper. 400 tons sold and consigned to B. Ursells' Successors, Stockholm, in order to meet objections to consignments "to order."
Held at Glasgow, November 18, for Prize Court.
Arrived at Gothenburg, December 17.
- S.S. NORHEIM, Norwegian.
Sailed October 17, 1914, for Italy.
Cargo—Copper.
Shippers: United Metals Selling Company.
L. Vogelstein & Company.
Held at Gibraltar, November 18.
- S.S. SIGRUN, Norwegian.
Left New York, November 9, 1914, for Gothenburg and Malmoe.
Seized November 26, and taken into Newport, England, December 2.
Vessel detained pending search for suspected contraband.
Cargo held for Prize Court included, for Gothenburg 560,894 pounds of copper valued at \$70,047; 222 packages crude rubber valued at \$21,414; 1,596 barrels lubricating oil valued at \$8,778. For Malmoe: 1,009,532 pounds copper valued at \$126,871; 600 barrels lubricating oil valued at \$3,300. For balance of cargo, consisting of oilcake, paraffine, cornoil, oats, cocoa, feed, tea, furs, engines and machinery, sewing machines and oleo, reshipment allowed.
Sailed for Gothenburg, January 15, 1915.
Arrived Gothenburg, January 25.
Arrived Malmoe, February 16.
- S.S. GALILEO, British.
Sailed from New York, November 7, 1914, for Sweden.
Cargo—Copper.
Shippers: L. Vogelstein & Co.
Held at Hull, November 26.
Left Hull, December 13, for New York.
- S.S. KIM, Norwegian (Gans S.S. Line).
Sailed from New York, November 11, 1914, for Copenhagen.
Cargo—General, including meat.
Taken into Falmouth, November 27; left December 4.
Ordered to Newcastle, December 8; cargo discharged and seized January 5, 1915.
March 27, Prize Court ordered payment for cargo.
Steamer detained until May 23, 1915.
- S.S. TANCRED, Norwegian (Gans S.S. Line).
Left Port Arthur, Texas, November 13, 1914, for Danish ports.
Cargo—Cotton.
Arrived at Falmouth. Detained for inspection, November 28.
Left November 30. Arrived at Aarhus, Denmark, December 10, where cargo discharged.
- S.S. STRINDA, Norwegian (Gans S.S. Line).
Sailed from New York, November 14, 1914, for Copenhagen.
Cargo—General.
Taken into Falmouth, November 29. After inspection allowed to proceed.
Left December 3.
- S.S. RAN, Norwegian.
Sailed from New York, November 13, 1914, for Liverpool and Sweden.
Cargo—Cotton-seed products, copper and leather; part for Liverpool, balance for Gothenburg and Malmoe.
Taken into custody by British authorities, November 29, and held as a prize. Released December 26.
- S.S. SANDEFJORD, Norwegian.
Sailed from New York, November 27, 1914, for Copenhagen.
Cargo—Cotton.
Prize crew put on board outside of Sandy Hook.
Arrived at Halifax, November 30.
Cargo partly discharged, suspected contraband.
Arrived at Kirkwall, January 15, 1915.
Sailed, January 16.
Arrived at Copenhagen, January 19.
- S.S. GEORGE HAWLEY, American (American Exporters' Line. C. H. Sprague & Son, Boston).
Sailed from New York, November 15, for Copenhagen.
Cargo—General.
Taken into Falmouth, November 30; gave up ship's papers voluntarily for examination.
Reason for detention: None given to Master officially.
Released January 2, 1915, and proceeded with *full cargo* to destination.
Other circumstances: Master protested in writing on December 5, 1914. Master was verbally informed by Customs Officers that they would have to hold the vessel on account of the flour, wheat and oil on

- board. Later Master was simply informed verbally that trouble was because the consignee of the 550 barrels of oil was at that time *under suspicion* by the British Government. On January 1, 1915, Master was told to proceed with his full cargo on board and no excuse or reason given for the thirty-three days' detention at Falmouth. Damage for detention at charter rates, etc., etc., amounted to \$14,000.
- S.S. CANTON, Swedish.
Sailed from New York, November 17, 1914, for Stockholm and Gothenburg.
Cargo—Copper, 375 tons.
Shipper: American Smelting and Refining Co.
Held December 1, The Tyne.
- S.S. EDWARD PIERCE, American (American Exporters' Line. C. H. Sprague & Son, Boston).
Sailed from New York, November 24, 1914, for Gothenburg and Copenhagen.
Cargo—General.
Taken into Falmouth, December 8. On December 13, proceeded with full cargo.
Master was told verbally he was detained on account of flour and peas on board, although both were consigned direct to parties in Copenhagen. No excuse or reason given for delay. Master was shown a telegram to Customs Officers reading, "American S.S. *Edward Pierce* with *suspected* cargo from New York expected Falmouth about 6th inst. If she comes in send her immediately into harbor (Signed) F. C. December 3, 6 p. m." Detention premeditated days ahead on mere suspicion.
Damage for detention at charter rates, etc., etc., amounted to \$7,000.
- S.S. HERM, Norwegian (Gans S.S. Line).
Sailed from New York, November 12, 1914, for Bilbao, Oporto, Lisbon, Genoa and Barcelona.
Cargo—General.
Stopped outside Lisbon; ordered to Gibraltar, December 8.
Released and sailed, December 14.
- S.S. MARACAS, American.
Sailed from New York December 9, 1914, for Genoa, via Gibraltar and Naples.
Brought into Halifax, N. S., by Prize Crew from British warship, December 12.
No reason given for detention by officer in charge.
Later allowed to proceed to destination upon assurance that cargo not destined to enemy ports.
Arrived Genoa, January 10, 1915.
- S.S. BRINDILLA, American (Standard Oil Company).
Sailed from Alexandria, Egypt, on or about November 26, 1914.
Arrived at St. Michaels, Azores, to take an oil cargo from a German steamer on December 12.
Reported leaving St. Michaels, December 20, for Copenhagen.
Intercepted off the coast of Scotland and taken to Aberdeen. (Second seizure.)
- S.S. TELLUS, Norwegian.
Sailed from New York, November 18, 1914, for Genoa.
Cargo—200 tons of copper, sold and consigned to U. Vedorelli, Milan.
Seized and held at Gibraltar.
Arrived Genoa, December 28.
- S.S. A. A. RAVEN, American.
Sailed from Wilmington, Delaware, December 5, 1915, for Rotterdam.
Cargo—Cotton.
(First steamer since war to reach Dutch port with cotton for Germany.)
Arrived at Rotterdam, December 24, 1914.
Held up by British warship in Channel, delayed twenty-four hours for examination of papers.
- S.S. MIRJAM, Norwegian.
Sailed from New York, November 24, 1914, to Copenhagen.
Detained at Kirkwall, December 16.
Released January 15, 1915.
- S.S. SORLAND, Norwegian.
Sailed from New York, November 27, 1914, for Gothenburg.
Cargo—600 tons copper.
Arrived at Leith, December 27.
Detained.
Arrived at Gothenburg, January 22, 1915.
- S.S. NEW SWEDEN, Swedish.
Sailed from New York, December 6, 1914, for Sweden.
Cargo—Copper.
Shippers: American Smelting and Refining Co.
Arrived at Kirkwall, December 21. Held at Shields, December 28.
Sailed January 10, 1915.
Arrived Gothenburg, January 13.
- S.S. RAMSDAL, Norwegian.
Sailed from New York, November 28, 1914, for Christiania.
Taken to Kirkwall, December 21.
Arrived at Leith, December 24, in charge of a Prize Crew.
Arrived at Christiania, February 8, 1915.
- S.S. ZAMORA, Swedish.
Sailed from New York, December 8, 1914, for Copenhagen.
Cargo—Copper.
Arrived at Kirkwall, December 29.
Arrived at Copenhagen, January 11, 1915.
- S.S. KENTUCKY, Danish.
Sailed from Baltimore, November 24, 1914, via New York for Copenhagen.
Detained at Kirkwall, December 16.
Arrived at Leith, December 29. 714 tons of meat consigned to Denmark thrown into Prize Court.
Arrived at Copenhagen, February 2, 1915.
- S.S. VIRGINIA, Danish.
Sailed from Philadelphia, December 3, 1914, for Copenhagen.
At Kirkwall, December 23.
Arrived at Shields, December 30, 1914.
- S.S. GREENBRIER, American (C. L. Dimon, New York).
Sailed from New Orleans, December 11, 1914 (via Norfolk, December 17), for Bremen.
Cargo—Cotton, under certificate of British Consul at New York.
Stopped on December 30, by British cruiser, boarded and searched.
British flag hoisted and taken to Kirkwall.
Detained three days and then taken to Leith and allowed to proceed to Bremen.
Arrived at Bremen, January 9, 1915.

- S.S. TULA, American (Crucible Steel Company).
Sailed from New York, December 1, 1914, for Copenhagen.
Cargo—Grain and flour.
Seized by the British and detained at Leith.
Upon investigation as to ultimate destination of cargo permitted to proceed on December 31.
Sailed January 7, 1915, and arrived at Copenhagen, January 11.
- S.S. HELIG OLAV, Danish (Scandinavian-American Line).
Sailed from New York, December 3, 1914, for Christiansand and Copenhagen.
Boarded at Kirkwall by British marines and detained eight days pending investigation as to character of cargo.
Arrived at Copenhagen, December 23, 1914.
- S.S. ARKANSAS, Danish (chartered by Gans S.S. Company).
Sailed from New York, December 11, 1914, for Copenhagen.
Cargo—Meat.
Arrived at Shields in charge of a Prize Crew, January 2, 1915.
Arrived at Copenhagen, January 22.
- S.S. AUGUSTA, Swedish.
Sailed from New York, December 9, 1914, for Gothenburg and Malmoe.
Taken to Kirkwall.
Arrived at Newcastle, January 4, 1915, in charge of a Prize Crew.
At Hartlepool, January 10.
Arrived at Gothenburg, February 1.
- S.S. ONEKA, British.
Sailed from New York, January 2, 1915, for Piraeus, Greece.
Cargo—American oil. (Standard Oil Company.) Partly for Bulgaria and Greece.
Detained at Malta, being suspected delivery to Turkey.
- S.S. DENVER, American (Mallory S.S. Company, New York).
Sailed from Norfolk, December 23, 1914, for Bremen.
Cargo—Cotton. Loaded under supervision of British Consul at Norfolk.
Detained January 6, 1915, at Kirkwall.
Released on representation.
- S.S. GOVERNOR, American (Pacific Coast Company, New York).
Detained by Canadian Customs Officials, January 13, 1915, at Vancouver, B. C.
Cargo—Hides for San Francisco, California.
Released after unloading hides.
- S.S. OSCAR II, Danish.
Sailed from New York, February 4, 1915, for Christiania and Copenhagen.
Taken into Kirkwall and held for examination as to her cargo.
Arrived at Copenhagen, February 20.
- S.S. VITALIA, Norwegian.
Sailed from New York, February 3, 1915, for Rotterdam.
Cargo—Packing products.
Taken into Falmouth, February 20.
Released after cargo was consigned to Netherlands Oversea Trust.
- S.S. ANTILLA, American (New York and Cuba Mail S.S. Company).
Sailed from New York, February 9, 1915, for Malmoe and Copenhagen.
Cargo—Cattle food of various kinds.
On February 24, stopped by British cruiser when in Lat. 59-58 N, Long. 9-14 W.
No reason given. British cruiser ordered vessel to proceed to Kirkwall with a Prize Crew on board after four hours' detention while examining ship's papers. On March 9 was taken by British Prize Crew to Dundee. March 23, Admiralty discharged part of cargo in Dundee and reloaded the balance. On April 27, vessel was allowed to proceed with remainder of cargo.
Alleged damage to vessel for detention, etc., amounted to \$98,000.
Certified to both by Danish and British Consuls.
- S.S. PLATURIA, American Registry (Controlled by Standard Oil Company).
Sailed from Philadelphia, February 13, 1915, for Malmoe and Helsingborg.
Detained at Kirkwall, March 2.
- S.S. PASS OF BALMHA, American.
Sailed from New York, January 30, 1915, for Bremen.
Cargo—Cotton.
Detained at Kirkwall, March 8.
Released after inspection.
Arrived at Bremen, March 31.
- S.S. VIGILANCIA, American (Walker, Armstrong and Company, Savannah).
Sailed from Savannah, Georgia, February 22, 1915, for Bremen.
Cargo—Cotton.
Intercepted at sea by British cruiser, taken into Kirkwall.
Arrived at Kirkwall, March 8.
Arrived at Bremen, March 15.
- S.S. GREKLAND, Swedish.
Sailed from New York, February 18, 1915, for Gothenburg.
Cargo—American meat products.
Held in Kirkwall from March 10, because destination of cargo suspected.
Released and sailed April 1 for Gothenburg.
- S.S. A. A. RAVEN, American.
Sailed from New York, February 13, 1915, for Rotterdam.
Cargo—Meat.
Held at Deal, March 12.
Reconsigning to the Netherlands Oversea Trust.
Arrived Rotterdam, April 2.
- S.S. SPYROS VALLIANOS, Greek.
Sailed from Savannah, Georgia, March 10, 1915, for Rotterdam.
Cargo—Cotton.
Detained at Falmouth.
- S.S. LIVONIA, Danish.
Sailed from Galveston, March 20, 1915, for Aalborg and Copenhagen.
Held at Falmouth, April 14. Bristol, May 6, pending settlement of price of cotton cargo.

- S.S. SEGURANCA, American.
Sailed from New York on March 9, for Holland.
Cargo—General.
Consigned to consignees in Holland.
Detained by the British in April.
The Department of State protested against the detention of the Seguranca, stating that the shipper's manifest showed that the entire cargo was consigned to Dutch consignees and was accompanied by a certificate from the British Consul-General at New York, and that the loading of the vessel, moreover, had been supervised by the British Consul-General's inspector. The United States Government could not admit the right of the British Government to require that this cargo be reconsigned to the Netherlands Oversea Trust.
- S.S. OGEECHIE, American.
Sailed from Bremen, April 4, 1915, for New York.
Arrived at Sharpness, April 18.
Cargo confiscated as being of German origin.
Sailed for New York, May 1.
Arrived May 18.
- S.S. SOUTHERNER, Danish.
Sailed from Charleston, S. C., March 31, 1915, for Rotterdam.
Cargo—Cotton.
Detained at Falmouth, pending negotiations by Great Britain for the purchase of cotton on board.
Arrived at Rotterdam, April 28.
- S.S. GIOVANNIG, Italian.
Detained, but allowed to proceed on April 20, 1915, without discharging her cargo.
- S.S. KELBERGEN, Dutch.
Sailed from New York, April 26, 1915, for Rotterdam.
Taken into Kirkwall.
Innocence of cargo established and released.
- S.S. MARIE, Swedish.
Sailed from Galveston, Texas, March 13, 1915, for Malmoe, Sweden.
Arrived at Clyde in charge of Prize Crew.
Was stopped on suspicion regarding destination of cargo.
- S.S. ATHINAL, Greek.
Sailed from New York, May 16, 1915, for Palermo and Piraeus.
Arrived, and seized, at Gibraltar, May 29.
Permitted to proceed after discharging 400 bales of cotton and 1,200 reels of barbed wire.
Placed before Prize Court, charge being destination for Germany.
- S.S. GARGOYLE, American (Vacuum Oil Company). (Changed from German to American Registry.)
Sailed from New York, May 10, 1915, for Alexandria.
Cargo—Bulk oil.
Reported at Malta, May 31.
Seized by British authorities and Prize Court writ issued.
- S.S. F. J. LISMAN, American.
Sailed from New York, May 23, 1915, for Rotterdam.
General cargo consigned to Netherlands Oversea Trust.
Held at London, June 8, and 1,000 barrels of phosphate removed for disposition by Prize Court.
- S.S. PORTLAND, American.
Sailed from San Francisco, April 25, 1915, for Stockholm (via New York).
Cargo—General.
Detained at Kirkwall, June 16.
Taken to Blyth, June 19, where 34 tons of dried fruit were sent to Prize Court.
Arrived at Stockholm, July 8.
- S.S. VARING, Swedish.
Sailed from Savannah, Georgia, May 30, 1915, for Swedish ports.
Cargo—General.
Detained at Kirkwall, June 19.
- S.S. BERGENSFJORD, Norwegian.
Sailed from New York, June 12, 1915, for Bergen.
Cargo—General.
Taken to Kirkwall, June 21.
Arrived at Bergen, June 24.
- S.S. NOR, Norwegian.
Sailed from New York, June 5, 1915, for Rotterdam.
Held in the Downs for examination of cargo, June 28.
- S.S. MUSKOGEE, American.
Sailed from New Orleans, June 7, 1915 (Newport News, June 14), for Gothenburg.
Taken into Kirkwall, July 5, and released July 7, for Gothenburg.
Arrived July 9.
- S.S. BRATLAND, Norwegian.
Sailed from Baltimore, June 15, 1915, for Aalborg, Denmark.
Taken into Kirkwall, July 6.
Arrived at Aalborg, July 12.
- S.S. JANNA, Norwegian.
Sailed from San Francisco, March 4, 1915, for Bergen, Norway.
Cargo—Grain.
Taken into Kirkwall, July 8.
Arrived at Bergen, July 19.
- S.S. GURRE, Danish.
Sailed from Baltimore, July 1, 1915, for Aalborg, Denmark.
Taken into Kirkwall, July 19.
Released July 23, and sailed for Aalborg and Randers.
- S.S. HULDA MAERSK, Danish.
Sailed from Savannah, Georgia, July 10, 1915 (Norfolk, July 13), for Malmoe.
Cargo—Cottonseed.
Detained at Kirkwall.
Arrived at Malmoe, August 12.

- S.S. NECHES, American.
Sailed from Rotterdam to the United States.
Cargo—General.
Detained at the Downs and brought to London, where cargo was discharged.
The United States Government, July 15, 1915, made vigorous protest against the detention of the vessel and the unloading of the cargo, which was the property of American citizens, at London.
- S.S. BUFFALO, British.
Sailed from New York, August 18, 1915, for Christiania.
Cargo—Hacksaws.
Arrived at Hull, September 5.
Thrown into Prize Court on the assertion that cargo was bound for Germany.
- S.S. VITALIA, Norwegian.
Sailed from New York, August 19, 1915, for Rotterdam.
Cargo—Meat.
Detained at Falmouth, September 7, and thrown into Prize Court, the British Government's contention being that there were fats and oils in the cargo not consigned to the Netherlands Oversea Trust.
- S.S. CORNING, American (Standard Oil Company).
Sailed from Baton Rouge, La., August 17, 1915, to Malmoe.
Cargo—Refined petroleum and naphtha.
Detained at Kirkwall, September 7.
Standard Oil Company placed the case in the hands of the American Government.
Released.
Arrived at Malmoe, September 28.
- S.S. OSCAR II, Swedish.
Sailed from New York, September 9, 1915, for Christiansand.
Taken to Kirkwall.
Sailed September 21.
- S.S. LOUISIANA, Danish.
Sailed from New York, September 15, 1915, for Copenhagen.
Arrived at Kirkwall "prior to October 1, 1915," and sent to Aberdeen to discharge part of her cargo.
- S.S. UNITED STATES, Danish.
Sailed from New York, August 26, 1915, for Copenhagen.
Cargo—General.
Had unloaded at Copenhagen, when British Government ordered her to reload and to take cargo back to England under penalty of seizure.
- S.S. HELSINGBORG, Swedish.
Sailed from Port Arthur, Texas, August 28, 1915, via Norfolk, for Aarhus, Denmark.
Cargo—Cottonseed.
Detained at Kirkwall, September 28.
Arrived at Blyth, October 3.
- S.S. CALIFORNIA, Danish.
Sailed from New York, August 31, 1915, for Christiania.
Cargo—General.
Detained September 29, at Leith.
- S.S. ABSALOM, Danish.
Sailed from Philadelphia, September 12, 1915, for Copenhagen.
Detained at Kirkwall.
- S.S. ORIGIN, Norwegian.
Sailed from New York, September 14, 1915, for Kirkwall and Vallo.
Detained at Kirkwall.
- S.S. PETROLITE, American (Standard Oil Company).
Sailed from Philadelphia, September 15, 1915, for Copenhagen.
Detained at Kirkwall, September 29.
Arrived at Copenhagen, October 8.
(Had been previously detained by British authorities and released, August 17, 1915.)
- S.S. ST. JOHN, Swedish.
Sailed from Baltimore, September 12, 1915, for Gothenburg.
Detained at Kirkwall.
Arrived at Gothenburg, October 8.
- S.S. ESTER, Swedish.
Sailed from Port Tampa, Fla., September 5, 1915, for Newport News and Malmoe.
Detained at Kirkwall, September 30.
- S.S. FREDERICK VIII, Danish.
Sailed from New York, September 22, 1915, for Copenhagen.
Cargo—Bacon.
Ordered to unload at Kirkwall, September 30.
- S.S. OSMAN, Swedish.
Sailed from New Orleans, September 11, 1915, via Norfolk, for Copenhagen.
Arrived at Kirkwall, Oct. 6.
Released.
Arrived at Copenhagen, October 12, 1915.
- S.S. CONRAD MOHR, Norwegian.
Sailed from Baton Rouge, La., September 15, 1915, via Norfolk, for Bergen.
Arrived at Kirkwall, October 7.
Released.
Arrived at Bergen, October 11.
- S.S. FRAM, Norwegian.
Sailed from Baltimore, September 18, 1915, for Vaksdal.
Arrived at Kirkwall, October 7.
Released.
Arrived at Bergen, October 11, 1915.
Second seizure.
- S.S. ALADDIN, Norwegian.
Sailed from New York, September 21, 1915, for Stockholm.
Brought to Kirkwall, October 7.
Released.

- S.S. ORION, Swedish.
Sailed from Philadelphia, September 22, 1915, for Stockholm.
Cargo—Coal.
Brought into Kirkwall, October 10.
Released October 14.
- S.S. VIRGINIA, Danish.
Sailed from New York, September 25, 1915, for Christiania and Copenhagen.
Cargo—General.
Taken to Kirkwall, October 10.
Taken to Grimsby, October 19.
To Prize Court.
- S.S. MEXICANO, Norwegian.
Sailed from New Orleans, September 24, 1915, for Christiania and Copenhagen.
Cargo—General.
Detained at Kirkwall.
Sailed October 12, 1915, for Christiania.
- S.S. HOCKING, American.
(Formerly Danish, purchased and transferred by American Transatlantic Steamship Company to American Registry, July 31, 1915.)
Objected to by British alleging that she was purchased with German capital.
Sailed from New York, October 29, 1915, for Norfolk.
Seized by British cruiser and taken to Halifax, N. S., October 31, in charge of Prize Crew conveyed by British warships.
In charge of Admiralty Court.
- S.S. HAMBORN, Dutch (Munson Line).
Sailed from New York, October 27, 1915, for Cuba.
Cargo—General.
Halted eighty-five miles from New York by British cruiser.
Taken to Halifax, N. S., October 31, by Prize Crew, conveyed by British warships.
In charge of Admiralty Court.
- S.S. LLAMA, American (Standard Oil Company).
(Formerly German, transferred to American Registry.)
Sailed from New York, October 14, 1915, for Copenhagen.
Cargo—Oil.
Seized by British Prize Crew and afterward run aground (October 31) on Skae Skerries, Westray Firth, Scotland.
- S.S. ATHAMAS, Greek.
Sailed from Galveston October 15th, 1915 (Norfolk, October 24th), for Rotterdam.
Seized and taken into British port, November 18th.
- ANDREW WELCH, American bark, George W. McNear, San Francisco.
Sailed from San Francisco, August 19th, 1915, for Halstad, Sweden.
Cargo—beans.
Boarded by British prize crew off the Shetland Islands and ordered into Lerwick.
On account of storms carried towards Norway and towed into Christiansand by S.S. "Russland," November 17th.
- S.S. ZEALANDIA, American, sailed from Tampa Sept. 15, 1915, cargo: rosin, hides, rubber for Sweden, arrived at Pensacola Sept. 27th, left for Tampico Oct. 3rd, arrived at Progreso Oct. 25th bound for Malmoe. Sweden, boarded and searched by British crew, according to Captain, within three miles limit. Steamer still remains at Progreso on account of fear of capture.
- S.S. KRISTIANIAFJORD, Norwegian, sailed from New York November 6, 1915 for Bergen and Christiania, general cargo, detained at Kirkwall, arrived at Bergen November 21st. Compelled to return to England 6,000 cases of American pork, 1,800 bags of coffee, the ultimate destination of which having been questioned by British authorities.
- S.S. GENESEE, American, owned by American Transatlantic Co., New York, sailed from New York October 11, 1915, left Norfolk October 14 with cargo of coal for Montevideo, seized and boarded by British Prize crew, ordered to St. Lucia, November 20.

On the following pages is an incomplete list of vessels carrying American cargoes which, sailing in practically all instances from American to Scandinavian ports, were diverted by British authorities to the port of Kirkwall, or called at that port under instructions from owners, between March 11, 1915, and June 17, 1915:

DETENTION RECORD OF A SINGLE BRITISH PORT

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
ELSA; part cargo put in prize court; ordered Sunderland discharge.		March 11, 1915.	March 15, 1915
MARACAS; cargo put in prize court; ordered Hull to discharge.		March, 11, 1915.	March 16, 1915
GUÐRUN; bound from Europe to the United States.		March 11, 1915.	March 11, 1915
AMPHITRITE	Cottonseed cake	March 12, 1915.	March 14, 1915
JENS BANG; bound from Europe to the United States.		March 12, 1915.	March 12, 1915
RODFAZE	Maize	March 12, 1915.	March 14, 1915
RAN	Maize and rye	March 12, 1915.	March 14, 1915
LISKEN	Maize and rye	March 12, 1915.	March 12, 1915
ABSALON		March 12, 1915.	March 13, 1915
WICO	Oil	March 13, 1915.	March 31, 1915
TORVIG	Cottonseed cake	March 13, 1915.	March 15, 1915
GREEN BRIAR		March 13, 1915.	March 16, 1915
ENAR JARL	Cotton	March 13, 1915.	March 16, 1915
OGEECHEE		March 14, 1915.	March 16, 1915
TANCRED	Cotton	March 14, 1915.	March 16, 1915
JOHN BLUMMER	Oilcake	March 14, 1915.	March 16, 1915
SUTRA	Cotton	March 14, 1915.	March 15, 1915
FROGNER	General	March 15, 1915.	March 18, 1915
HJORTHOLM		March 17, 1915.	March 18, 1915
CALIFORNIA	General	March 17, 1915.	March 23, 1915
UFFE; bound from Europe to United States via Ardrossan.		March 19, 1915.	March 19, 1915
CARL HENCKEL	Cottonseed cake	March 20, 1915.	March 25, 1915
HELGA	Cottonseed cake	March 20, 1915.	March 31, 1915
NEWA	Cottonseed cake	March 20, 1915.	March 26, 1915
HAVET		March 20, 1915.	March 23, 1915
TERNO	Maize	March 20, 1915.	March 23, 1915
UNITED STATES	General	March 21, 1915.	March 24, 1915
TEXAS	General	March 21, 1915.	March 24, 1915
HAARON VII.	Cotton	March 21, 1915.	March 23, 1915
VARING	Oilcake	March 21, 1915.	March 26, 1915
SINSEN		March 21, 1915.	March 23, 1915
OXELOSUND	Wheat	March 21, 1915.	March 23, 1915
SIGURD		March 21, 1915.	March 22, 1915
MYRDAL	General	March 22, 1915.	March 24, 1915
SARK	Maize and barley	March 22, 1915.	March 28, 1915
BORGLAND	Cotton	March 22, 1915.	March 24, 1915
VARÐ	Grain, oilcake and starch	March 23, 1915.	March 25, 1915
NIKE; sailed for Newcastle.	Maize	March 23, 1915.	April 1, 1915
GULFAXE	Wheat, maize, rye and barley.	March 23, 1915.	March 25, 1915
NEW SWEDEN; prize crew to New- castle.	General	March 23, 1915.	March 29, 1915
STIKELSTAD	General	March 23, 1915.	April 4, 1915
KORSFJORD; whole cargo put in prize court; ordered Grimsby to dis- charge.	Lard	March 24, 1915.	March 28, 1915
CYGNUS; cargo put in prize court; ordered West Hartlepool to discharge.	General	March 24, 1915.	March 31, 1915
INDIANIC; bound from Europe to United States.		March 24, 1915.	March 24, 1915
VESTA		March 24, 1915.	March 25, 1915
CARMELINA	Cotton	March 25, 1915.	March 27, 1915
HENRIK; part cargo put in prize court; ordered to Leith to discharge.	General	March 25, 1915.	April 14, 1915
UNITA	Maize	March 25, 1915.	March 29, 1915
THORSÐAL	Maize	March 25, 1915.	March 27, 1915
DROTT	Oilcake	March 26, 1915.	March 28, 1915
KARMA		March 26, 1915.	March 28, 1915
STRINDA	Cotton	March 26, 1915.	March 28, 1915
IRIS	Cottonseed cake	March 26, 1915.	March 28, 1915
LARGO	Rye	March 26, 1915.	March 28, 1915
VINCENT; bound from Europe to United States.		March 26, 1915.	March 28, 1915
RAN	Maize	March 27, 1915.	March 30, 1915
TERJE VIKEN	General	March 27, 1915.	April 29, 1915
BRETAGNE	Barley	March 27, 1915.	March 31, 1915
BODEN	Wheat	March 27, 1915.	March 30, 1915
AVONA	Cottonseed cake	March 27, 1915.	March 30, 1915
HELMER MORCH	Oil cake	March 27, 1915.	March 30, 1915
CENTRIC	Cotton	March 28, 1915.	March 30, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
STAVN; part cargo put in prize court; sailed Leith to discharge.	General	March 28, 1915	April 1, 1915
CLITRA	Maize	March 28, 1915	April 2, 1915
ATHENS; cleared at Ardrossan.		March 29, 1915	April 29, 1915
DANMARK; cleared at Ardrossan.		March 29, 1915	April 29, 1915
BERGENSFJORD	General, mail and pas- sengers.	March 30, 1915	April 6, 1915
SIRIUS; bound from Europe to United States.		March 30, 1915	March 30, 1915
BIA; whole cargo put in prize court; sailed to Manchester to discharge.	Cotton	March 30, 1915	April 7, 1915
OSCAR TRAPP; bound from Europe to United States.		March 30, 1915	March 31, 1915
FIONIA	Barley and general	March 31, 1915	April 6, 1915
SVERRE	Barley	March 31, 1915	April 13, 1915
HILDING; part cargo put in prize court; sailed Leith to discharge.	General	March 31, 1915	April 7, 1915
LIGURIA	Cotton	April 1, 1915	April 4, 1915
NYLAND	Oats	April 1, 1915	April 3, 1915
ANTWERPEN		April 1, 1915	April 2, 1915
CAPELLA	Oil cake	April 1, 1915	April 3, 1915
ELLEN	Maize	April 1, 1915	April 3, 1915
ATLAND	Wheat	April 1, 1915	April 2, 1915
DORTE JENSEN	Maize	April 1, 1915	April 4, 1915
NORDLAND	Maize	April 2, 1915	April 4, 1915
ALEXANDRA	General	April 2, 1915	April 4, 1915
UTO; whole cargo put in prize court; steamer ordered to Hull to discharge.	Cottonseed cake	April 2, 1915	April 11, 1915
ROMSDALFJORD; part cargo put in prize court; ordered Sunderland to discharge.	General	April 3, 1915	April 12, 1915
SVERIGE	Wheat and rye	April 3, 1915	April 4, 1915
HAMMERSHUS; cargo put in prize court; ordered to discharge at Glas- gov.	Rum, hides	April 3, 1915	April 17, 1915
ULRICK HOLM	Grain	April 3, 1915	April 6, 1915
JESSIE	Cottonseed cake	April 3, 1915	April 7, 1915
ROMSDAL		April 3, 1915	April 4, 1915
AVANCE	Cottonseed cake	April 3, 1915	April 7, 1915
HANS JENSEN	Maize	April 4, 1915	April 7, 1915
KRONSTAD		April 4, 1915	April 7, 1915
NEDENES	Maize	April 4, 1915	April 7, 1915
STEINSTAD	Maize and rye	April 4, 1915	April 9, 1915
ALBIS; whole cargo put in prize court; ordered Middlesboro to dis- charge.	General	April 5, 1915	April 11, 1915
LALY	Cotton and tobacco	April 5, 1915	April 13, 1915
MAUD; part cargo put in prize court; ordered Fleetwood to discharge.	Cotton and flour	April 5, 1915	April 17, 1915
WALDIMIR REITZ	Oilcake	April 5, 1915	April 7, 1915
KRONSPRINS OLAF	Cotton and oil cake	April 5, 1915	April 13, 1915
ELSE	Maize	April 5, 1915	April 20, 1915
CHUMPON	Cotton	April 6, 1915	April 13, 1915
LLAMA	Oil	April 6, 1915	April 13, 1915
SORLAND; part cargo put in prize court; ordered West Hartlepool to discharge.	General	April 7, 1915	April 10, 1915
MUSKOGEE		April 7, 1915	April 14, 1915
NAVAGO	General	April 7, 1915	April 11, 1915
ANNUM; part cargo put in prize court; ordered Hull to discharge.	General	April 7, 1915	April 11, 1915
ALBERT W. SELMER	Rye	April 8, 1915	April 10, 1915
SILJESTAD	Maize	April 8, 1915	April 10, 1915
LEANDER		April 8, 1915	April 10, 1915
MARIE; prize crew to Greenock.	Cotton	April 8, 1915	May 3, 1915
JOSEPH W. FORDNEY; prize crew to Wallow Bay.		April 8, 1915	April 19, 1915
IMO	Cottonseed cake	April 9, 1915	April 11, 1915
ARKANSAS	General	April 9, 1915	April 14, 1915
VIRGINIA	Rye	April 9, 1915	April 11, 1915
LAPLAND; part cargo put in prize court; ordered to Barrow to dis- charge.	General	April 9, 1915	April 13, 1915
ZAMORA; part cargo put in prize court; ordered to Barrow to discharge.	Grain and copper	April 9, 1915	April 16, 1915
SELMA		April 10, 1915	April 13, 1915
HELLIG OLAF	General	April 11, 1915	April 15, 1915
PACIFIC; part cargo put in prize court; ordered Leith to discharge.	General	April 11, 1915	April 16, 1915
SONGELV	Cottonseed cake	April 11, 1915	April 19, 1915
LEJRE; part cargo put in prize court; ordered Sharpness to discharge.	Cotton	April 11, 1915	April 20, 1915
MAGDALENE; ordered Manchester to discharge.	Cotton	April 12, 1915	May 2, 1915
DROT		April 12, 1915	April 14, 1915
THOLMA		April 12, 1915	April 14, 1915

LIST OF SHIPS DETAINED

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Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
AMERICA; part cargo put in prize court; ordered Sunderland to discharge.	General	April 12, 1915.	April 16, 1915
N. F. HOLDING	Grain	April 12, 1915.	April 14, 1915
GEORGIA; prize crew to Sharpness.	Cotton	April 12, 1915.	April 20, 1915
JOHAN SIEM	Cottonseed cake	April 13, 1915.	April 15, 1915
HANS BROGE; cleared at Ardrossan.	Rye	April 13, 1915.	April 13, 1915
TORDIS	Cottonseed cake	April 13, 1915.	April 15, 1915
BALTIC; ship ordered to Hull to discharge.	Cotton	April 13, 1915.	May 13, 1915
BRAKER	Maize	April 13, 1915.	April 18, 1915
ROMA	Lubricating oil	April 13, 1915.	April 17, 1915
L. H. CARL; cleared at Ardrossan.		April 13, 1915.	April 13, 1915
HERO	Maize	April 14, 1915.	April 16, 1915
MIRJAM	Rye	April 14, 1915.	April 16, 1915
KONG HAAKON	Maize	April 14, 1915.	April 27, 1915
DICIDO; prize crew to Fleetwood.	Cotton	April 14, 1915.	May 1, 1915
LARS KRUSE	Maize	April 14, 1915.	April 16, 1915
TALavera	Maize	April 14, 1915.	April 17, 1915
FALKA	Cottonseed cake	April 15, 1915.	April 17, 1915
CAROLINA; ordered Grimsby to discharge.	Cotton	April 15, 1915.	May 2, 1915
LOUISIANA; ordered Hull to discharge part cargo.	General	April 16, 1915.	April 23, 1915
MEXICANO; ordered Greenock with prize crew.	General	April 16, 1915.	April 18, 1915
ANGLIA; prize crew to Dundee.	Cotton and resin	April 16, 1915.	April 24, 1915
JUNGSHEVD		April 16, 1915.	April 18, 1915
ORN; cleared at Ardrossan.		April 16, 1915.	April 16, 1915
BRETAGNE		April 17, 1915.	April 19, 1915
STORAKER	Maize	April 18, 1915.	April 21, 1915
OLAF KYRRE; ordered Grimsby to discharge cotton.	Cotton	April 19, 1915.	May 5, 1915
HEROS	Wheat and rye	April 20, 1915.	April 22, 1915
BERTHA	Maize	April 21, 1915.	April 23, 1915
WILH COLDING; cleared at Ardrossan.		April 21, 1915.	April 21, 1915
KRISTIANIAFJORD	General cargo, mail and passengers.	April 21, 1915.	April 22, 1915
GOTHARD	Cottonseed cake	April 21, 1915.	April 23, 1915
CHRISTIAN MICHELSEN	General	April 21, 1915.	April 24, 1915
EIDSWA	Cottonseed cake	April 21, 1915.	April 24, 1915
TOMSK		April 22, 1915.	April 27, 1915
REGINA	Cottonseed cake	April 22, 1915.	April 24, 1915
RUSS	Cottonseed cake	April 22, 1915.	April 24, 1915
HOGLAND; bound from Europe to United States.		April 23, 1915.	April 23, 1915
RANDULF HANSEN	Maize	April 23, 1915.	April 25, 1915
ST. CROIX	Cottonseed cake	April 23, 1915.	April 25, 1915
RINGHORN	Rye	April 24, 1915.	April 25, 1915
PIONEER	Petroleum	April 24, 1915.	April 26, 1915
CARL HENKEL; via Newcastle for bunkers.		April 24, 1915.	April 24, 1915
HERO; cleared at Ardrossan.		April 24, 1915.	April 24, 1915
LOCKSLEY	Wheat	April 24, 1915.	April 27, 1915
KENTUCKY	General	April 24, 1915.	April 27, 1915
SOBORG	Maize and barley	April 25, 1915.	April 27, 1915
ARTEMIS; prize crew to Avonmouth.	General	April 25, 1915.	April 28, 1915
GROINTOFT	Maize and barley	April 25, 1915.	April 26, 1915
HANS JENSEN; via Ardrossan for bunkers.		April 25, 1915.	April 25, 1915
KONGSFES	Oil cake	April 26, 1915.	April 28, 1915
BRYNHILD; cleared at Ardrossan.		April 26, 1915.	April 26, 1915
DRONNING OLGA; prize crew to Leith.	Wheat, lard, etc.	April 27, 1915.	April 30, 1915
KRANSPRINS FREDERICK	Barley	April 27, 1915.	April 29, 1915
SALINA	Rye and Maize	April 28, 1915.	April 29, 1915
IVAR; cleared at Ardrossan.	Maize	April 28, 1915.	April 28, 1915
NERBOTTEN	Coal and lubricating oil.	April 28, 1915.	April 30, 1915
FREDERICIA; cleared at Ardrossan.		April 29, 1915.	April 29, 1915
WICO; cleared at North Shields.	Ballast	April 29, 1915.	April 30, 1915
CAROLYN; prize crew to Leith.	Cotton and turpentine.	April 29, 1915.	May 3, 1915
VARING; via Newcastle for bunkers.		April 30, 1915.	May 1, 1915
INLAND; cleared at Ardrossan.		May 1, 1915.	May 1, 1915
UNITED STATES	Mails and passengers.	May 2, 1915.	May 4, 1915
JENS BANG	Maize	May 2, 1915.	May 4, 1915
LUDVIG PEYRON	Wheat	May 4, 1915.	May 5, 1915
MINERVA; prize crew to Newcastle.	General	May 4, 1915.	May 7, 1915
HATHOLMEN	Cottonseed cake	May 4, 1915.	May 6, 1915
BUR	Wheat	May 6, 1915.	May 8, 1915
PETROLITE	Petroleum lubricating oil.	May 7, 1915.	May 9, 1915
AUGUSTA; prize crew to Leith.	General	May 7, 1915.	May 10, 1915
GERD; prize crew to Leith.	General	May 7, 1915.	May 10, 1915
THEKLA	Linseed cake	May 7, 1915.	May 10, 1915
ORION	Maize	May 8, 1915.	May 10, 1915
PARIS; cleared at Ardrossan.	Lubricating oil	May 8, 1915.	May 8, 1915
OTTERSTAD	Cottonseed cake	May 8, 1915.	May 10, 1915

Name of vessel.	Cargo	Date of arrival in British ports.		Date of leaving British ports.	
SIGYN; prize crew to Ipswich.....	Wheat, rye and maize.....	May 8, 1915	May 14, 1915		
GUDRUN	Maize	May 8, 1915	May 9, 1915		
OSCAR II.	General cargo, mail and passengers.	May 9, 1915	May 10, 1915		
LONDON; prize crew to Barrow.....	Lubricating oil	May 10, 1915	May 13, 1915		
MARICOPA	Gas oil	May 10, 1915	May 19, 1915		
GUNBORG; prize crew to Dundee.....	General	May 10, 1915	May 12, 1915		
LIV	Rye	May 11, 1915	May 12, 1915		
LOCH TAY	General	May 11, 1915	May 19, 1915		
NORDIC; prize crew to Manchester.....	General	May 12, 1915	May 15, 1915		
INDIANIC; prize crew to Leith.....	General	May 12, 1915	May 17, 1915		
VINLAND	Maize	May 13, 1915	May 15, 1915		
SVEN; prize crew to King's Lynn.....	Rock, phosphate	May 13, 1915	May 24, 1915		
SKINFAXE	Maize	May 14, 1915	May 16, 1915		
OOMAN	Maize	May 14, 1915	May 16, 1915		
PROSPER III; cleared at Ardrossan.....	General	May 14, 1915	May 14, 1915		
DANIA	General	May 14, 1915	May 19, 1915		
JOHN BLUMER	Maize	May 15, 1915	May 18, 1915		
GURTH	Wheat	May 15, 1915	May 17, 1915		
SOMMERSTAD	Maize	May 18, 1915	May 20, 1915		
SYDLAND; prize crew to West Hartlepool.	General	May 18, 1915	May 21, 1915		
UFFE; cleared at Ardrossan.....	Oil cake	May 21, 1915	May 21, 1915		
REDFAXE	Rye	May 22, 1915	May 25, 1915		
EXCELLENCE PLESKE	Cottonseed cake	May 23, 1915	May 27, 1915		
VULCAN; cleared by customs on June 5, but detained by Admiralty.	Oil	May 23, 1915	June 9, 1915		
ESTER	Cottonseed cake	May 23, 1915	May 25, 1915		
SIGURD; cleared at Ardrossan.....	Oil cake	May 23, 1915	May 24, 1915		
DRAMMENSFJORD	General	May 25, 1915	May 27, 1915		
GLENDOM	Cottonseed cake	May 25, 1915	May 27, 1915		
PYTHIA; prize crew to Immingham..	Cotton and cottonseed cake.	May 27, 1915	May 30, 1915		
SOPHIE	Cottonseed cake	May 27, 1915	May 29, 1915		
ALDEBARAN	Maize	May 28, 1915	May 30, 1915		
KIRUNA	Wheat	May 28, 1915	May 30, 1915		
FREDERICK VIII.....	General mail and passengers.	May 28, 1915	May 29, 1915		
JUSTENSEN; cleared at Ayr.....	Maize	May 28, 1915	May 28, 1915		
ROMANOFF	Barley	May 28, 1915	June 30, 1915		
TYR; cleared by customs on 25th.....	General	May 29, 1915	June 29, 1915		
AMPHITRITE	Rye	May 29, 1915	June 1, 1915		
OLAF; cleared at Ardrossan.....	Cottonseed cake	May 29, 1915	May 29, 1915		
ENAR JARL; prize crew to Sunderland.	Cottonseed cake	May 29, 1915	June 11, 1915		
LLAMA	Gas oil	May 29, 1915	June 5, 1915		
EDDERSIDE	Oil cake	May 30, 1915	June 1, 1915		
H. V. FIEKER	Maize	May 31, 1915	May 31, 1915		
MARIETTA DI GIORGIO	Gas oil and lubricating oil.	June 1, 1915	June 18, 1915		
LYEGLINT	Oil cake	June 1, 1915	June 3, 1915		
SYDIC	Wheat	June 1, 1915	June 3, 1915		
VIDAR	Cottonseed cake	June 2, 1915	June 6, 1915		
LEELANAW; cleared for Archangel.....	Cotton	June 2, 1915	June 26, 1915		
BRETAGNO; Tyne for bunkers.....	Maize	June 3, 1915	June 5, 1915		
POLSTAD	Cottonseed cake	June 3, 1915	June 6, 1915		
GULFAXE	Maize	June 3, 1915	June 5, 1915		
ROS	Rye	June 6, 1915	June 8, 1915		
M. J. MANDAL; cleared at Ayr.....	Maize	June 6, 1915	June 6, 1915		
WHINLATTER; detained	Barley and oil cake	June 6, 1915			
NARVIK	Rye	June 6, 1915	June 8, 1915		
BEDEN	Coal	June 6, 1915	June 10, 1915		
NORDKYN; prize crew to Leith.....	Maize	June 8, 1915	June 17, 1915		
POLARINE; detained	Petroleum and naphtha.....	June 8, 1915			
CARL HENCKEL	Cottonseed cake	June 9, 1915	June 11, 1915		
JEMTLAND; prize crew to Leith.....	Resin, cotton, cottonseed cake oil.	June 9, 1915	June 12, 1915		
PLATURIA; detained	Oil	June 10, 1915			
CALIFORNIA	General	June 11, 1915	June 19, 1915		
DJURSLAND	Oil cake	June 11, 1915	June 17, 1915		
CUSHING	Petroleum	June 12, 1915	June 13, 1915		
ABSALON	Lubricating Oil	June 13, 1915	June 13, 1915		
LISA; detained	Resin	June 13, 1915			
WICO	Oil	June 13, 1915	June 14, 1915		
BALTO	Coal	June 14, 1915	June 15, 1915		
NORDHAVET; prize crew to Gribbsby.....	Agricultural implements.....	June 14, 1915	June 19, 1915		
NEW SWEDEN	Gas coal	June 14, 1915	June 15, 1915		
OSCAR TRAPP	Pitch pine wood	June 14, 1915	June 14, 1915		
HANS JENSEN	Maize	June 14, 1915	June 16, 1915		
SIGNE; cleared by customs; taking bunkers; expect sail July 2, 1915.	General	June 14, 1915	June 30, 1915		
DORTE JENSEN; cleared at Ardrossan.	Maize	June 15, 1915	June 15, 1915		
PORTLAND; prize crew to Blyth.....	Barley, beans, dried fruit and oil cake.	June 15, 1915	June 18, 1915		
SEACONNET; prize crew to Newcastle.	General	June 16, 1915	June 19, 1915		

IX

QUOTATIONS PERTINENT TO THE ISSUE

THE PATRIOTIC PRESS OF A CENTURY AGO

ENGLAND AND THE LAW OF NATIONS

From *The General Advertiser, Philadelphia*,
Dec. 16, 1793

The law of nations is the tacit acquiescence of nations, in those rules by which they consent to be governed in their transactions, with respect to each other. This law must therefore vary as civilization softens and improves the general mass of manners, among those nations whose mutual intercourse subjects them to similar laws. Thus it was anciently held that the conqueror had the power of life and death over the conquered—and from thence was deduced the practice of holding prisoners in a state of slavery. The humanity of modern nations has exploded this doctrine, and the law of nations limits the power of the conqueror to a temporary confinement. The ancient law of nations declared, that an enemy's property, or even the subject of a power at war, might be taken from a neutral ship, provided that freight and demurrage were paid; so that the neutral vessel lost nothing by the capture. The violence and inconveniences that this law, even thus qualified, gave birth to, induced the Empress of Russia to propose during the last war, an alteration of it, *whereby neutral vessels should be inviolate, except when carrying contraband goods*, and to prevent any misapprehensions on that subject, she enumerated the contraband goods—to this law all Europe (with one exception) and the United States formally acceded. Britain, the exception alluded to, not being willing to relinquish her piratical system, did not formally acknowledge the rule—however, she respected it so far, as to confine her aggressions to the weaker states, and those aggressions produced here were with the United Netherlands. But as one individual of a community cannot prevent the operation of a law which the majority impose, the law of nations has by their consent been changed, notwithstanding the dissent of Britain; and that this is the opinion of the President, appears from his appealing to the modern law of nations in his proclamation. It follows, therefore, that every seizure and detainer of our vessels; every condemnation of their cargoes, under pretense of their belonging to an enemy, is an open and gross violation of the modern law of nations. But why do we talk of modern

law? *There is no law either ancient or modern—no law either human or divine—that confines her usurpations, that sets bounds to her violence.* By a late proclamation of the British King, every vessel carrying the produce of our own country, of any kind, to any port of France, is made liable to seizure: she must suffer the insolence of British cruisers, and be compelled to dispose of her cargo at such rates as they choose to give. In what law of nations has this usurpation upon the rights of a neutral power ever been found? Injury does not stop her—it goes further and declares, that whenever any place shall be declared to be in a state of siege, that every vessel going towards it shall be lawful prize—so that the Royal Proclamation alters the nature of things, and makes that a state of siege, which is not so actually; and that contraband which no law of usage ever declared to be such.

ENGLAND AND THE RIGHTS OF NEUTRALS

From *The Aurora, Philadelphia*,
May 30, 1801

Who is there that can regard the great laws which connect society and establish the rights of property, that will assert the legitimacy of a seizure upon the property of a traveler on shore? Is the character of property changed, or the title of the proprietor changed, by the accident of my rice or tobacco being on board a ship instead of being in my store or on my plantation?

From *The Aurora, June 17, 1801.*

We shall put the case in a simple point of view. Mr. Higginson, at Boston, plans a voyage to Canton. The ship on her outward passage is met by the English frigate *Boston*, but, not satisfied with her papers, or obtaining information from a vindictive seaman, or a person sent by the British Captain to ship as a seaman in the American vessel that the cargo was French property, or contraband, the vessel is carried into Providence or Halifax; there she is labelled—lawyers of course are engaged and fees given in proportion to the value of the ship and the cargo, and the ship after a few months' detention is delivered up, after an expenditure of from five to six thousand dollars, court fees, and lawyers' fees; beside the delay of the voyage, the expense of the crew,

and the interest upon the value of the whole—even if the cargo has escaped pillage—*this is only a case in the mildest form, thousands of which have occurred since the British treaty.*

(From *The Aurora*, December 13, 1805.)

As war itself is an outrage of moral justice, and indifferent nations are not allowed to interfere in *their* disputes, so neither are indifferent nations to be involved in the consequences of their dispute; for a vice or crime, that is war, is itself sufficiently afflicting to those who are engaged in it; the principles of universal justice demand then that those who are not concerned or involved in it, should be exempted from its effects. This was, in fact, the principle of the armed neutrality of 1780. The object was to secure peaceable nations from the injuries and wrongs of nations arrogant and despotic, and who being themselves at war, would not suffer any other nation to be at peace.

We infer, therefore, that if the moral law—of which Christians and Christian nations boast so much—is to be the standard of right and wrong, that it cannot be maintained, that the peace, property, liberty, rights, and independence of free, peaceable nations, can, consistently with the moral law, be interrupted or injured; and that if the moral law is to prevail (and if it does not there is an end of all law), that the peaceable nation has the right to the full latitude of the treaties quoted to trade with all the world unmolested.

(From *The Aurora*, December 16, 1805.)

A dollar at sea is 100 cents on shore—a robbery of my ship of five or ten thousand dollars is as much a robbery and a wrong done to me as the robbing of my house in town or country of the like amount.

If the law of nations is to be decided by coercion—then let Britain plunder on the ocean until she once more incenses and combines all nations against her. We cannot meet her in a line of battle at sea—for her fleets cover it; we must, therefore, make war where we can, sequester first; and if that does not procure justice, embargo; if that fails, confiscate; and then we cannot be worse treated than we have been and are daily.

(From *The Aurora*, December 17, 1805.)

It is time then that we do not submit to the reproach of conniving at a total change of the usages of civilized nations—it is time that we rescued ourselves from the disgrace of an abandonment of the principles of the armed neutrality of 1780, in which the true principles of neutral national right were asserted. These principles . . . cannot be but constantly kept in view, "a nation in-

dependent and neutral does not lose by the war of others, the right which they had before the war, because peace exists between her and all the belligerent powers." Without receiving or being obliged to follow the laws of either of these she has a right to follow, in all places (contraband excepted) the traffic which she would have a right to carry on if peace existed between all other nations, as it existed here.

That neutral vessels have a right to navigate freely from port to port, even on the coasts of the powers at war.

That the effects of the subjects of the powers at war shall be free in neutral vessels on the high sea, except such as are acknowledged by all nations to be contraband.

That as the blockade of a port is to be understood only where a vessel cannot enter without evident danger, on account of vessels of war stationed there to form an effectual blockade.

But moral justice does not enter into the English interpretation of the law of nations. Her principles and her practices are analogous to those of the highway robber, who, because he carries a pair of pistols, forbids the unarmed and innocent travelers, whom he meets on the road, from passing till he has plundered them. . . . The right of search, which was at first a qualified right, subject to restrictions within the bounds of reasonableness, has been extended to a search the most vexatious and injurious to the cargo, on the high seas; to the disregard of papers, and to breaking open of hatches and packages.

The next step was, from the right of carrying into port upon strong and palpable suspicion of contraband, to carrying in at discretion.

From this followed the extension of the principle of contraband to articles not actually war-like, such as timber and metals, because they MIGHT be used in war. After this extension, the principle of contraband was enlarged to food, and even to the vulgar luxury of tobacco. After flour and tobacco had been determined to be contraband of war, it was not at all surprising that England should believe she had befooled or dismayed mankind; and having involved Holland in war, and commanded Genoa and Tuscany to declare war, when they wished to be, and it was their interest to be, at peace; it was not at all wonderful to find England attempting to accomplish by a proclamation what she could not effect by her fleets, the blockade of the whole coast.

The blockade of the whole world, however, suitably succeeded, for in fact such is the effect of the orders, decrees and decisions of the English privy council and courts.

Take the new principles, or rather the violation of all just principles, held up by the English concerning the navigation of neu-

trials, and it amounts to this: That the ports of a nation at war with England and the ports of the colonies of that nation are in a state of blockade, when England chooses to publish an Order in Council; and whenever she does not choose to issue such an order, it is to be considered that she relaxes from the straight rule, and this, of course, is considered as an indulgence! If the law of nations and the laws of war were to be regulated in this way, it would be absurd in the last degree to talk of national independence. Not only the United States, but every nation on earth would be no better than the vassals of England.

The neutral nation is not surely bound to lie still and suffer! . . . England says: "No! I am at war in defense of all order and all religion, and all government—have I not stood up for the Pope in 1795, and the Turk in 1805—have I not taken the Mogul and the Mahattahs under my protection—and shall I not take the golden bull and the Republic of Genoa under my effective protection now?" Extravagant and ludicrous as this personification of England is—it furnishes as coherent argument as any that can be set up in support of its oppression of neutrals.

(From *The Aurora*, Dec. 18, 1805.)

It has been too long the fashion to esteem other countries before our own . . . and it is time that the fashion of loving our country should once more resume its beneficent and cheering influence. Our situation is original in the annals of the world; our youth do not sufficiently appreciate the superiority of our country over other nations, in every particular that has been considered meritorious and worthy of historical celebrity and the imitation of great and noble minds. It is time that our youth should begin to feel this honor and to act upon it. It is time that we think with a boldness and dignity suited to the originality and glory of their condition, and that they learn to preserve sacred and to hand down to their successors the glorious gifts which the virtues of their forefathers have secured for them by the sacrifice of so much blood—those sacrifices should be constantly kept in sight—and every invasion of our national rights should be deemed an invocation on us to rise, reassert and defend them under every peril.

(From *The Aurora*, Dec. 5, 1805.)

Britain boasts that her present greatness is owing to her navigation laws—let the United States form theirs also.

NOTE.—The "*Aurora*" was the most influential newspaper in the United States in the beginning of the nineteenth century. Founded by Benjamin Franklin Bache, son-in-law and heir of Benjamin Franklin, issued from the Franklin printing house at No. 15 Franklin Court, Philadelphia, and carried on by William Duane after Bache's death, the "*Aurora*" was the chief single agency that wrought the election of Jefferson and framed the policies of the Government after the Republican party had begun its fifty-year lease of power.

To the printing office of the "*Aurora*" early in the nineteenth century came a young immigrant, James Wilson, grandfather of the twenty-eighth President of the United States. James Wilson became chief compositor on the "*Aurora*," and as such worked for a number of years. He was devoted to his chief, even naming his first son William Duane Wilson. In 1812, the name of James Wilson went up as owner of the "*Aurora*."

In reading extracts like those above (which might be multiplied many fold), one is constrained to ask himself whether, during the past hundred years, civilization has advanced or retreated. Have manners softened, or grown more barbarous? Have peaceable populations maintained their rights in fuller degree, or have they yielded those they had already achieved? Are the patriotic sentiments which these idols of their day—Bache and Duane—penned, and which the young Irish immigrant (not being afraid of a hyphen more or less, he called himself a Scots-Irish-American) put into type—are they uncongenial to the minds of Americans today? Were those sentiments mistaken, were they inhumane, were they unenlightened? Or, are they merely too vigorous?

In short, why are not the views which James Wilson put into type a century ago appropriate to the pen of his grandson to-day?

THOMAS JEFFERSON ON NEUTRAL RIGHTS

[*Mr. Jefferson, Secretary of State, to Mr. C. Pinckney, United States Minister in London, September 7, 1793.*]

The state of war existing between Great Britain and France furnishes no legitimate right either to interrupt the agriculture of the United States or the peaceable exchange of its produce with all nations, and consequently the assumption of it will be as lawful hereafter as now, in peace as in war. No ground, acknowledged by the common reason of mankind, authorizes this act now, and unacknowledged ground may be taken at any and at all times.

We see then a practice begun, to which no time, no circumstances, prescribe any limits, and which strikes at the root of our agriculture, that branch of industry which gives food, clothing and comfort to the great mass of the inhabitants of these States. If any nation whatever has a right to shut up to our produce all the ports of the earth, except her own and those of her friends, she may shut up these also, and so confine us within our own limits. No nation can subscribe to such pretensions; no nation can agree, at the mere will or interest of another, to have its peaceable industry suspended and its citizens reduced to idleness and want. The loss of our produce, destined to foreign markets, or that loss which would result from an arbitrary restraint of our markets, is a tax too serious for us to acquiesce in.

It is not enough for a nation to say we and our friends will buy your produce. We have a right to answer that it suits us better to sell to their enemies as well as their friends. Our ships do not go to France to return empty; they go to exchange the surplus of our produce which we can spare for surpluses of other kinds which they can spare and we want; which they can furnish on better terms, and more to our mind, than Great Britain or her friends.

We have a right to judge for ourselves what market best suits us, and they have none to forbid to us the enjoyment of the necessaries and comforts which we may obtain from any other independent country.

Were we to withhold from her (France) supplies of provisions, we should in like manner be bound to withhold them from her enemies also, and thus shut to ourselves all the ports of Europe where corn is in demand or make ourselves parties in the war. This is a dilemma which Great Britain has no right to force upon us, and for which no pretext can be found in any part of our conduct. She may, indeed, feel the desire of starving an enemy nation, but she can have no right of doing it at our loss nor of making us the instruments of it.

Thomas Jefferson to Baronne de Stael Holstein, May 24, 1813.

England is in principle the enemy of all maritime nations. The object of England is the permanent dominion of the ocean, and the monopoly of the trade of the world. To do this she must keep a larger fleet than her resources will maintain. *The resources of other nations then must be impressed to supply the deficiency of her own.* This is sufficiently developed and evidenced by her successive strides towards the usurpation of the sea. Mark them after her first war, after William Pitt, the little, came into her administration. She first forbade neutrals all trade with her enemies in time of war, which they had not in time of peace. Then she forbade them to trade from the port of one nation to that of another at war with her, although a right fully exercised in time of peace. Next instead of taking vessels only entering a blockaded port, she took them over the whole ocean, if destined to that port, although ignorant of the blockade,

and without intention to violate it. Then she took them returning from that port, as if infected by previous infraction of blockade. Then came her paper blockades, by which she might shut up the whole world without sending a ship to sea, except to take all those sailing on it, as they must, of course, be bound to some port. And these were followed by her orders of Council, forbidding every nation to go to the port of another nation without coming first to some port of Great Britain, there paying a tribute to her, regulated by the cargo, and taking from her a license to proceed to the port of destination; which operation the vessel was to repeat with the return cargo on its return. And finally that her views may not longer rest in inference, in a recent debate, her minister declared in open parliament that the object of the present war is a monopoly of commerce.

PRESIDENT MADISON ON PAPER BLOCKADES

(From *President Madison's Message to Congress*, June 18, 1812.)

Under pretended blockades, without the presence of an adequate force, and sometimes without the practicability of applying one, our commerce has been plundered in every sea; the great staples of our country have been cut off from their legitimate markets; and a destructive blow aimed at our agricultural and maritime interests. In aggravation of these predatory measures, they have been considered as in force from the dates of their notification; a retrospective effect being thus added, as has been done in other important cases, to the unlawfulness of the course pursued. And to render the outrage the more signal, these mock blockades have been reiterated and enforced in the face of official communications from the British Government, declaring, as the true definition of a legal blockade, "that particular ports must be actually invested, and previous warning given to vessels bound to them not to enter."

Not content with these occasional expedients for laying waste our neutral trade, the Cabinet of Great Britain resorted at length

to the sweeping system of blockades, under the name of Orders in Council, which has been moulded and managed as might best suit its political views, its commercial jealousies, or the avidity of British cruisers.

To our remonstrances against the complicated and transcendent injustice of this innovation, the first reply was that the orders were reluctantly adopted by Great Britain as a necessary retaliation on decrees of her enemy proclaiming a general blockade of the British Isles, at a time when the naval force of that enemy dared not to issue from his own ports. She was reminded without effect that her own prior blockades, unsupported by an adequate naval force, actually applied and continued, were a bar to this plea; that executed edicts against millions of our property could not be retaliation on edicts confessedly impossible to be executed; that retaliation, to be just, should fall on the party setting the guilty example, *not on an innocent party* which was not even chargeable with an acquiescence in it.

PRESIDENT GRANT'S IDEA OF AN "UNFRIENDLY ACT"

[*Mr. Fish, Secretary of State, to Mr. Washburn, Minister at Paris, October 4, 1870. (See For. Rel. 3rd S. 41st C., Executive Documents I, Franco-German War, 37.)*].

This government desires and intends to maintain a perfect and strict neutrality between the two powers now unfortunately engaged in war. It desires also to extend to both the manifestation of its friendly feeling in every possible way and will allow to the vessels of war of each power equally the hospitality of its ports and harbors for all proper and friendly purpose.

But this hospitality is liable to abuse, and circumstances have arisen to give rise in the minds of some persons to the apprehension that attempts at such abuse have taken place.

I am not in possession of facts to justify me in saying that such has been the case, but I have deemed myself justified in calling the attention of M. Berthemy, the French representative at this capital, to the current rumors, sustained as they are by the presence of a number of French vessels upon the coast of the United States. These vessels have appeared at or near the entrance of the harbor of New York, off Sandy Hook; at the entrance of the Long Island Sound and at or near the entrance of Chesapeake Bay. One or more is represented to have been anchored not far from Sandy Hook, the main entrance to New York Harbor, and there is a difference of statement as to the precise distance at which she lay from shore; some claiming that she was within a

marine league. But of this there is no positive evidence. She has entered the port of New York, as claimed by some, for the purpose of watching a German steamer about to sail thence. Three of them have put into the harbor of New London, which looks out upon Long Island Sound, the eastern entrance to the New York Harbor, avowedly for small repairs. One recently asked permission, which was granted, to make some repairs at the Norfolk navy yard, near the entrance of Chesapeake Bay.

All this may be consistent with an intention of perfect observance of the neutral character of our waters and jurisdiction and with an entire absence of undertaking any hostile movement against the vessels of north Germany from those waters or that jurisdiction.

A large trade has been carried on from the ports of the United States approached by the waters in which these vessels have thus appeared by vessels belonging to north Germany.

The appearance of French vessels in these immediate neighborhoods in such numbers and force does not fail to excite the alarm of these vessels and must have the effect to a greater or less degree of diminishing that trade.

The United States is not prepared at present to say that any actual violation of in-

ternational law has been committed or that the hospitality of these waters has been positively abused. But the hovering of the vessels of war of a belligerent on the coast near the entrance of the principal ports of a friendly power does interfere with the trade of the friendly power.

The interruption of the regular communication with you by reason of the investment of Paris has led me to represent to M. Berthemy our views on this subject and to

say that, although the vessels of either belligerents may not actually shelter within the jurisdiction of the United States and proceed thence against the vessels of its enemy, this government would regard as an unfriendly act the hovering of such vessels upon the coast of the United States near to its shores in the neighborhood of its ports and in the track of the ordinary commerce of these ports with intent to intercept the vessels of trade of its enemy.

THE BRITISH AND GERMAN WAR ZONES COMPARED

(Special to the *New York Times*.)

WASHINGTON, Feb. 7, 1915.—Developments to-day with respect to the German war zone proclamation indicate that the American Government is not likely at this time to file any protest or make representations to the German Government respecting the enforcement of the German order. The long memorandum delivered by the German Foreign Office to Ambassador Gerard, explaining the proclamation, has been received at the State Department, and perusal of its text, which was cabled to American newspapers this morning, convinced officials here that at present no issue could be raised with Germany over the creation of the projected war zone without at the same time raising identically the same issue with Great Britain.

The German memorandum transmitted by Ambassador Gerard emphasizes the fact—a vitally important one in the present situation—that *Great Britain has declared the entire North Sea to be a war area*, and that if England has not made impossible the passage of neutral shipping through the sea between Scotland and Norway she has rendered “it so difficult and so dangerous that she has to a certain extent effected a blockade of neutral coasts and neutral ports, in violation of all international laws.”

The fact that the British Government has done identically the same thing with respect to the establishment of war zones in the open seas beyond the three-mile territorial limit, has been officially certified to the State Department by Sir Cecil Spring-Rice, the British Ambassador. *This was done three months ago, and no protest has ever been made by the United States against the action of Great Britain in establishing such a war zone.* Since the American Government has not protested against nor questioned the right of Great Britain to establish its war zone, it is evident that it would be impossible for the United States, without a violation of its attitude of strict neutrality, to attack or even question the German war zone proclamation at this or any other time, without similarly questioning the British war zone order.

Trump Card for Germany.

It dawned upon officials here today that the German Government had executed a rather neat and clever counter-diplomatic stroke in notifying the world of its intention to create a war zone around the British Isles by taking a leaf out of the British book, and doing the very thing that the British Government had done. The British and German war zone orders, as officially communicated to the State Department, were compared and closely studied today. This comparison was not found to be to the disadvantage of the Germans.

The situation resolves itself something after this fashion: For England the official date of the beginning of the war was August 4th. England waited until three months of the war had been fought and then served notice on the neutral powers of the world of her intention to establish a war zone. The British war zone was set up on November 5th. The Germans waited an additional three months, twice as long as did Great Britain, or until February 3d, exactly six months from the official British beginning of the war, and then announced its decision to establish a war zone, very similar to that of Great Britain, although somewhat more extensive. However, the principle involved with respect to both war zones is the same, since each is extensive enough to cover the high seas outside of the three-mile territorial limit, and the two war zones differ in importance only in degree, and the character of the operations to be conducted in them.

War Zones Compared.

A comparison of the British and German war zone orders disclosed these striking facts:

FIRST.—The British Government on Nov. 4th, notified the United States Government that its war zone would be effective from Nov. 5th—one day's notice.

SECOND.—The German Government issued its war zone proclamation on Feb. 4th, and communicated it to Ambassador Gerard on the same day, announcing that the German war zone around the British Isles would be

effective after Feb. 18th—*fifteen days' notice.*

THIRD.—The British war zone covers the whole of the North Sea.

FOURTH.—The German war zone covers the entire English Channel and all the territorial and high sea waters around the British Isles.

FIFTH.—The British war zone order sought to close the north of Scotland route around the British Isles to Norway, the Baltic, Denmark and Holland.

SIXTH.—The German war zone seeks to close the southern or English Channel route around the British Isles to Holland, Norway, Sweden, Denmark and the Baltic.

SEVENTH.—The British war zone decree drew an arbitrary line from the Hebrides Islands along the Scottish coast to Iceland, and warned neutral shipping that it would cross this line at its risk, but that ships of neutral nations might go to Holland and other neutral nations along the eastern littoral of the North Sea by taking the English Channel and Straits of Dover route.

EIGHTH.—The German war zone declares that neutral vessels will be exposed to danger in the English Channel, but routes of navigation around the north of Scotland Islands in the eastern part of the North Sea and in a strip thirty miles wide along the Dutch coast are not open to the danger zone.

NINTH.—The Germans make the southern channel route dangerous, and declare the north of Scotland route safe, while the British declare the north of Scotland route dangerous and the English Channel route safe, the effect of this being that neither the northern nor the southern routes around England will be safe for neutral vessels.

TENTH.—The British war zone order was based on the discovery of mines in the North Sea, while the German decree is based on England's attitude toward contraband, the *Wilhelmina* case and England's establishment of a war zone.

The British Proclamation.

Here is the text of the communication in which the British Ambassador three months ago notified the American State Department of the establishment of the British war zone:

Owing to the discovery of mines in the North Sea the whole of that sea must be considered a military area. Within this area merchant shipping of all kinds, traders of all countries, fishing craft, and all other vessels will be exposed to the gravest dangers from mines, which it has been necessary to lay from warships, searching vigilantly by night and day for suspicious craft.

All merchant and fishing vessels of every description are hereby warned of the dangers they encounter by entering this area except in strict accordance with Admiralty decisions. Every effort will be made to convey this warning to neutral countries and to vessels on the sea, but from the 5th of November onwards the Admiralty announce that all ships passing a line drawn from the northern point of the Hebrides through the Faroe Islands to Iceland do so at their own peril.

Ships of all countries wishing to trade to and from Norway, the Baltic, Denmark, and Holland are advised to come, if inward bound, by the English Channel and Straits of Dover. There they will be given sailing directions which will pass them safely so far as Great Britain is concerned, up the East Coast of England to Faroe Island, whence safe route will, if possible, be given to Lindesnaes Lightship. From this point they should turn north or south, according to their destination, keeping as near the coast as possible. Converse applies to vessels outward bound.

By strict adherence to these routes the commerce of all countries will be able to reach its destination in safety, so far as Great Britain is concerned, but any straying, even for a few miles, from the course thus indicated may be followed by serious consequences.

X

OFFICIAL DOCUMENTS

DECLARATION OF PARIS

April 16, 1856.

Declaration respecting maritime law signed by the plenipotentiaries of Great Britain, Austria, France, Prussia, Russia, Sardinia and Turkey, assembled in Congress at Paris, April 16, 1856.

Article 2

The neutral flag covers enemy's goods with the exception of contraband of war.

Article 3

Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag.

Article 4

Blockades, in order to be binding, must be effective, that is to say, maintained by a force sufficient really to prevent access to the coasts of the enemy.

DECLARATION OF LONDON*

Feb. 26, 1909.

Preliminary Provision.

The Signatory Powers are agreed that the rules contained in the following Chapters correspond in substance with the generally recognized principles of international law.

BLOCKADE.

Article 1—A blockade must not extend beyond the ports and coasts belonging to or occupied by the enemy.

Article 2—In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding, must be effective—that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coastline.

Article 3—The question whether a blockade is effective is a question of fact.

Article 5—A blockade must be applied impartially to the ships of all nations.

Article 17—Neutral vessels may not be captured for breach of blockade except within the area of operations of the warships detailed to render the blockade effective.

Article 18—The blockading forces must not bar access to neutral ports or coasts.

Article 19—Whatever may be the ulterior destination of a vessel or of her cargo, she cannot be captured for breach of blockade if, at the moment, she is on her way to a non-blockaded port.

CONTRABAND OF WAR.

Article 22.

The following articles may, without notice, be treated as contraband of war, under the name of absolute contraband:—

(1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.

(2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.

(3) Powder and explosives especially prepared for use in war.

(4) Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.

(5) Clothing and equipment of a distinctively military character.

(6) All kinds of harness of a distinctively military character.

(7) Saddle, draught, and pack animals suitable for use in war.

(8) Articles of camp equipment, and their distinctive component parts.

(9) Armour plates.

(10) War-ships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.

(11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.

* The Declaration of London Concerning the Laws of Naval Warfare was made at a Conference initiated by the British Government in a circular to the Powers. The British Government suggested the subjects to be discussed, the invitations were accepted, and the Conference met on the 4th of December, 1908. For the assistance of the Conference the British Government had collected material into a volume which became known as the Red Book and which served as a basis for the deliberations of the Conference. All the Powers convened in the Conference (namely: the United States, Great Britain, France, Russia, Japan, Italy, Germany, Austria-Hungary, Spain and Holland) were signatory to the Declaration, which, however, on account of various circumstances, failed to receive the formal ratification of the Powers. The authority of the Declaration of London, nevertheless, rests upon the Preliminary Provision, which declares that the principles enunciated in the Declaration are those which are in substance recognized principles of international law. There is in international law no authority higher than this.

Article 23.

Articles exclusively used for war may be added to the list of absolute contraband by a declaration which must be notified.

Such notification must be addressed to the Governments of other Powers, or to their representatives accredited to the Power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral Powers.

Article 24.

The following articles, susceptible of use in war as well as for purposes of peace, may, without notice, be treated as contraband of war, under the name of conditional contraband :—

- (1) Foodstuffs.
- (2) Forage and grain, suitable for feeding animals.
- (3) Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.
- (4) Gold and silver in coin or bullion; paper money.
- (5) Vehicles of all kinds available for use in war, and their component parts.
- (6) Vessels, craft, and boats of all kinds; floating docks, parts of docks and their component parts.
- (7) Railway material, both fixed and rolling-stock, and material for telegraphs, wireless telegraphs, and telephones.
- (8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognisable as intended for use in connection with balloons and flying machines.
- (9) Fuel; lubricants.
- (10) Powder and explosives not specially prepared for use in war.
- (11) Barbed wire and implements for fixing and cutting the same.
- (12) Horseshoes and shoeing materials.
- (13) Harness and saddlery.
- (14) Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

Article 25.

Articles susceptible of use in war as well as for purposes of peace, other than those enumerated in Articles 22 and 24, may be added to the list of conditional contraband by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

Article 26.

If a Power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in Articles 22 and 24, such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

Article 27.

Articles which are not susceptible of use in war may not be declared contraband of war.

Article 28.

The following may not be declared contraband of war :—

- (1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.
- (2) Oil seeds and nuts; copra.
- (3) Rubber, resins, gums, and laces; hops.
- (4) Raw hides and horns, bones and ivory.
- (5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.
- (6) Metallic ores.
- (7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.
- (8) Chinaware and glass.
- (9) Paper and paper-making materials.
- (10) Soap, paint and colours, including articles exclusively used in their manufacture, and varnish.
- (11) Bleaching powder, soda, ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.
- (12) Agricultural, mining, textile, and printing machinery.
- (13) Precious and semi-precious stones, pearls, mother-of-pearl, and coral.
- (14) Clocks and watches, other than chronometers.
- (15) Fashion and fancy goods.
- (16) Feathers of all kinds, hairs, and bristles.
- (17) Articles of household furniture and decoration; office furniture and requisites.

Article 29.

Likewise the following may not be treated as contraband of war :—

- (1) Articles serving exclusively to aid the sick and wounded. They can, however,

in case of urgent military necessity and subject to the payment of compensation, be requisitioned, if their destination is that specified in Article 30.

(2) Articles intended for the use of the vessel in which they are found as well as those intended for the use of her crew and passengers during the voyage.

Article 30.

Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transhipment or a subsequent transport by land.

Article 31.

Proof of the destination specified in Article 30 is complete in the following cases:—

(1) When the goods are documented for discharge in an enemy port, or for delivery to the armed forces of the enemy.

(2) When the vessel is to call at enemy ports only, or when she is to touch at an enemy port or meet the armed forces of the enemy before reaching the neutral port for which the goods in question are documented.

Article 32.

When a vessel is carrying absolute contraband, her papers are conclusive proof as to the voyage on which she is engaged, unless she is found clearly out of the course indicated by her papers and unable to give adequate reasons to justify such deviation.

Article 33.*

Conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a government department of the enemy State, unless in this latter case the circumstances show that the goods cannot in fact be used for the purposes of war in progress. This latter exception does not apply to a consignment coming under Article 24 (4).

Article 34.†

The destination referred to in Article 33 is presumed to exist if the goods are consigned to enemy authorities, or to a contractor established in the enemy country who, as a matter of common knowledge, supplies articles of this kind to the enemy. A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy. No such presumption, however, arises in the case of a merchant vessel bound for one of these places if it is sought to prove that she herself is contraband.

In cases where the above presumptions do not arise, the destination is presumed to be innocent.

The presumptions set up by this Article may be rebutted.

Article 35.

Conditional contraband is not liable to capture, except when found on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged in an intervening neutral port.

*The Drafting Committee of the Conference prepared a general report on the Declaration, in the course of which it says, discussing Article 33:

"There is no question of destination for the enemy in general, but of destination for the use of his armed forces or government departments."

†Discussing Article 34, the Drafting Committee said:

"Contraband articles will not usually be directly addressed to the military authorities or to the government departments of the enemy state. Their true destination will be more or less concealed, and the captor must prove it in order to justify their capture. But it has been thought reasonable to set up presumptions based on the nature of the person to whom, or place for which, the articles are destined. It may be an enemy authority or a trader established in an enemy country who, as a matter of common knowledge, supplies the enemy Government with articles of the kind in question. It may be a fortified place belonging to the enemy or a place used as a base, whether of operations or of supply, for the armed forces of the enemy."

"In the absence of the above presumptions, the destination is presumed to be innocent. That is the ordinary law, according to which the captor must prove the illicit character of the goods which he claims to capture."

Considerable discussion took place in the Press, and several questions were asked in the House of Commons with reference to this Article, both with regard to the translation of *commercant* by "contractor," and as to whether *ennemi* meant "enemy government." The Report in discussing the destination of conditional contraband says, "It may be an enemy authority or a trader established in an enemy country who as a matter of common knowledge, supplies the enemy Government with articles of the kind in question." The Under-Secretary for Foreign Affairs (Mr. Mackinnon Wood) stated in the House of Commons on the 29th March, 1909, that the word *commercant* in this Article "cannot possibly apply to a mere merchant who supplies goods to the general public," and the Secretary of State for Foreign Affairs (Sir Edward Grey) on the 5th April, 1909, in answer to a question on the divergence between the terms of Article 34 and the General Report, replied as follows: "For the reasons already given, I cannot admit that there is any ambiguity as to the meaning of Article 34. It is made clear, both by Article 33, on which Article 34 is dependent, and by the general official report of the Conference, that the word *ennemi* in Article 34 can only mean the enemy government. It is evident, however, that if the point had been raised at the time it would have been made perfectly clear in the drafting, and we therefore propose to make a declaration, at the time of the ratification, that the word *ennemi* in Article 34 means the government of the enemy." (*The Times*, 6th April, 1909.)

The ship's papers are conclusive proof both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

Article 36.

Notwithstanding the provisions of Article 35, conditional contraband, if shown to have the destination referred to in Article 33, is liable to capture in cases where the enemy country has no seaboard.

Article 37.

A vessel carrying goods liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole of her voyage, even if she is to touch at a port of call before reaching the hostile destination.

Article 38.

A vessel may not be captured on the ground that she has carried contraband on a previous occasion if such carriage is in point of fact at an end.

Article 39.

Contraband goods are liable to condemnation.

Article 40.

A vessel carrying contraband may be condemned if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.

Article 41.

If a vessel carrying contraband is released, she may be condemned to pay the costs and expenses incurred by the captor in respect of the proceedings in the National Prize Court and the custody of the ship and cargo during the proceedings.

Article 42.

Goods which belong to the owner of the contraband and are on board the same vessel are liable to condemnation.

Article 43.

If a vessel is encountered at sea while unaware of the outbreak of hostilities or of the declaration of contraband which applies to her cargo, the contraband cannot be condemned except on payment of compensation; the vessel herself and the remainder of the cargo are not liable to condemnation or to the costs and expenses referred to in Article 41. The same rule applies if the master, after becoming aware of the outbreak of hostilities, or of the declaration of contraband, has had no opportunity of discharging the contraband.

A vessel is deemed to be aware of the existence of a state of war, or of a declaration of contraband, if she left a neutral port subsequently to the notification to the Power to which such port belongs at the outbreak of hostilities or of the declaration of contraband respectively, provided that such notification was made in sufficient time. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the outbreak of hostilities.

Article 44.

A vessel which has been stopped on the ground that she is carrying contraband, and which is not liable to condemnation on account of the proportion of contraband on board, may, when the circumstances permit, be allowed to continue her voyage if the master is willing to hand over the contraband to the belligerent warship.

The delivery of the contraband must be entered by the captor on the logbook of the vessel stopped, and the master must give the captor duly certified copies of all relevant papers.

The captor is at liberty to destroy the contraband that has been handed over to him under these conditions.

TRANSFER TO A NEUTRAL FLAG.

Article 56.

The transfer of an enemy vessel to a neutral flag, effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There is, however, an absolute presumption that a transfer is void—

(1) If the transfer has been made during a voyage or in a blockaded port.

(2) If a right to repurchase or recover the vessel is reserved to the vendor.

(3) If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled.

INSTRUCTIONS TO BRITISH DELEGATION TO THE SECOND PEACE CONFERENCE, THE HAGUE

SIR EDWARD GREY TO SIR EDWARD FRY

FOREIGN OFFICE, JUNE 12, 1907.

25. His Majesty's Government recognize to the full the desirability of freeing neutral commerce to the utmost extent possible from interference by belligerent Powers, and they are ready and willing for their part, in lieu of endeavoring to frame new and more satisfactory rules for the prevention of contraband trade in the future, to abandon the principle of contraband of war altogether, thus allowing the oversea trade in neutral vessels between belligerents on the one hand and neutrals on the other, to continue during war without any restriction, subject only to its exclusion by blockade from an enemy's port. They are convinced that not only the interest of Great Britain, but the common interest of all nations will be found, on an unbiased examination of the subject, to be served by the adoption of the course suggested.

26. In the event of the proposal not being favourably received, an endeavor should be made to frame a list of the articles that are to be regarded as contraband. Your efforts should then be directed to restricting that definition within the narrowest possible limits and upon lines which have the point of practical extinction as their ultimate aim.

27. If a definite list of contraband cannot be secured, you should support and, if necessary, propose regulations intended to insure that nations shall publish, during peace, the list of articles they will regard as contraband during war, and that no change shall be made in the list on the outbreak of or during hostilities.

28. A list might be prepared and submitted for adoption by the Conference, specifying the articles which in no event shall fall within the enumeration of contraband, e.g., mails, foodstuffs destined for places other than beleaguered fortresses, and any raw materials required for the purposes of peaceful industry. It is essential to the interest of Great Britain that every effective measure necessary to protect the importation of food supplies and raw materials for peaceful industries should be accompanied by all sanctions which the law of nations can supply.

29. His Majesty's Government would further be glad to see the right of search limited in every practicable way, e.g., by the adoption of a system of Consular certificates declaring the absence of contraband from the cargo, and by the exemption of passenger and mail steamers upon defined routes, etc.

THE ORDERS IN COUNCIL

ORDER IN COUNCIL

AUGUST 20, 1914

Directing the Adoption and Enforcement During the Present Hostilities of the Convention Known as the Declaration of London, Subject to Additions and Modifications.

At the court at Buckingham Palace, the 20th day of August, 1914. Present, The King's Most Excellent Majesty in Council.

Whereas during the present hostilities the naval forces of His Majesty will cooperate with the French and Russian naval forces; and

Whereas it is desirable that the naval operations of the allied forces so far as they affect neutral ships and commerce should be conducted on similar principles; and

Whereas the Governments of France and Russia have informed His Majesty's Government that during the present hostilities it is their intention to act in accordance with the provisions of the convention known as the Declaration of London, signed on the 26th day of February, 1909, so far as may be practicable.

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, that during the present hostilities the convention known as the Declaration of London shall, subject to the following additions and modifications, be adopted and put in force by His Majesty's Government as if the same had been ratified by His Majesty:

The additions and modifications are as follows:

(1) The lists of absolute and conditional contraband contained in the proclamation dated August 4, 1914, shall be substituted for the lists contained in Articles 22 and 24 of the said declaration.

(2) A neutral vessel which succeeded in carrying contraband to the enemy with false papers may be detained for having carried such contraband if she is encountered before she has completed her return voyage.

(3) The destination referred to in Article 33 may be inferred from any sufficient evidence, and (in addition to the presumption laid down in Article 34) shall be presumed to exist if the goods are consigned to or for an agent of the enemy State or to or for a merchant or other person under the control of the authorities of the enemy State.

(4) The existence of a blockade shall be presumed to be known—

(a) To all ships which sailed from or touched at an enemy port a sufficient time after the notification of the blockade to the local authorities to have enabled the enemy Government to make known the existence of the blockade;

(b) To all ships which sailed from or touched at a British or allied port after the publication of the declaration of blockade.

(5) Notwithstanding the provisions of Article 35 of the said Declaration, conditional contraband, if shown to have the destination referred to in Article 32, is liable to capture, to whatever port the vessel is bound and at whatever port the cargo is to be discharged.

(6) The General Report of the Drafting Committee on the said Declaration presented to the Naval Conference and adopted by the conference at the eleventh plenary meeting on February 25, 1909, shall be considered by all Prize Courts as an authoritative statement of the meaning and intention of the said Declaration, and such courts shall construe and interpret the provisions of the said Declaration by the light of the commentary given therein.

And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other judges of His Majesty's Prize Courts, and all governors, officers, and authorities whom it may concern are to give the necessary directions herein as to them may respectively appertain.

ALMERIC FITZROY.

ORDER IN COUNCIL

OCTOBER 29, 1914

At the Court of Buckingham Palace, the 29th day of October, 1914. Present, The King's Most Excellent Majesty in Council.

Whereas by an Order in Council dated the 20th day of August, 1914, His Majesty was pleased to declare that during the present hostilities the Convention known as the Declaration of London should, subject to certain additions and modifications therein specified, be adopted and put in force by His Majesty's Government; and

Whereas the said additions and modifications were rendered necessary by the special conditions of the present war; and

Whereas it is desirable and possible now to reenact the said Order in Council with amendments in order to minimize, so far as possible, the interference with innocent neutral trade occasioned by the war:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:

1. During the present hostilities the provisions of the Convention known as the Declaration of London shall, subject to the exclusion of the lists of contraband and noncontraband, and to the modifications hereinafter set out, be adopted and put in force by His Majesty's Government.

The modifications are as follows:

- (i) A neutral vessel, with papers indicating a neutral destination, which, notwithstanding the destination shown on the papers, proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage.
- (ii) The destination referred to in Article 33 of the said Declaration shall (in addition to the presumptions laid down in Article 34) be presumed to exist if the goods are consigned to or for an agent of the enemy State.
- (iii) Notwithstanding the provisions of Article 35 of the said Declaration, conditional contraband shall be liable to capture on board a vessel bound for a neutral port if the goods are consigned "to order," or if the ship's papers do not show who is the consignee of the goods, or if they show a consignee of the goods in territory belonging to or occupied by the enemy.
- (iv) In the cases covered by the preceding paragraph (iii) it shall lie upon the owners of the goods to prove that their destination was innocent.

2. Where it is shown to the satisfaction of one of His Majesty's Principal Secretaries of State that the enemy Government is drawing supplies for its armed forces from or through a neutral country, he may direct that in respect of ships bound for a port in that country, Article 35 of the said Declaration shall not apply. Such direction shall be notified in the "London Gazette" and shall operate until the same is withdrawn. So long as such direction is in force, a vessel which is carrying conditional contraband to a port in that country shall not be immune from capture.

3. The Order in Council of the 20th August, 1914, directing the adoption and enforcement during the present hostilities of the Convention known as the Declaration of London, subject to the additions and modifications therein specified, is hereby repealed.

4. This Order may be cited as "the Declaration of London Order in Council, No. 2, 1914."

And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other Judges of His Majesty's Prize Courts, and all Governors, Officers, and Authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain.

ALMERIC FITZROY.

ORDER IN COUNCIL

MARCH 11, 1915

At the Court of Buckingham Palace, the 11th day of March, 1915. Present, The King's Most Excellent Majesty in Council.

Whereas the German Government has issued certain orders which, in violation of the usages of war, purport to declare the waters surrounding the United Kingdom a military area, in which all British and allied merchant vessels will be destroyed, irrespective of the safety of the lives of passengers and crew, and in which neutral shipping will be exposed to similar danger in view of the uncertainties of naval warfare; and

Whereas in a memorandum accompanying the said orders neutrals are warned against entrusting crews, passengers, or goods to British or allied ships:

Whereas such attempts on the part of the enemy give to His Majesty an unquestionable right of retaliation:

And whereas His Majesty has therefore decided to adopt further measures in order to prevent commodities of any kind from reaching or leaving Germany, though such measure will be enforced without risk to neutral ships or to neutral or noncombatant life and in strict observance of the dictates of humanity;

And whereas the allies of His Majesty are associated with him in the steps now to be announced for restricting further the commerce of Germany;

His Majesty is therefore pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:

1. No merchant vessel which sailed from her port of departure after the first March, 1915, shall be allowed to proceed on her voyage to any German port.

Unless the vessel receives a pass enabling her to proceed to some neutral or allied port to be named in the pass, goods on board any such vessel must be discharged in a British port and placed in the custody of the marshal of the prize court. Goods so discharged, not being contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the court, upon such terms as the court may in the circumstances deem to be just, to the person entitled thereto.

2. No merchant vessel which sailed from any German port after the first March, 1915, shall be allowed to proceed on her voyage with any goods on board laden at such port.

All goods laden at such port must be discharged in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and, if not requisitioned for the use of His Majesty, shall be detained or sold under the direction of the prize court. The proceeds of goods so sold shall be paid into court and dealt with in such manner as the court may in the circumstances deem to be just.

Provided, that no proceeds of the sale of such goods shall be paid out of court until the conclusion of peace, except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided also, that nothing herein shall prevent the release of neutral property laden at such enemy port on the application of the proper officer of the Crown.

3. Every merchant vessel which sailed from her port of departure after the first of March, 1915, on her way to a port other than a German port, carrying goods with an enemy destination, or which are enemy property, may be required to discharge such goods in a British or allied port. Any goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and, unless they are contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the court, upon such terms as the court may in the circumstances deem to be just to the person entitled thereto.

Provided, that this article shall not apply in any case falling within articles 2 or 4 of this order.

4. Every merchant vessel which sailed from a port other than a German port after the first of March, 1915, having on board goods which are of enemy origin or are enemy property may be required to discharge such goods in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and if not requisitioned for the use of His Majesty shall be detained or sold under the direction of the prize court. The proceeds of goods so sold shall be paid into court and dealt with in such manner as the court may in the circumstances deem to be just.

Provided, that no proceeds of sale of such goods shall be paid out of court until the conclusion of peace except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided, also, that nothing herein shall prevent the release of neutral property of enemy origin on the application of the proper officer of the Crown.

5. Any person claiming to be interested in, or to have any claim in respect of, any goods (not being contraband of war) placed in the custody of the marshal of the prize court under this order, or in the proceeds of such goods, may forthwith issue a writ in the prize court against the proper officer of the Crown and apply for an order that the goods should be restored to him, or that their proceeds should be paid to him, or for such other order as the circumstances of the case may require.

The practice and procedure of the prize court shall, so far as applicable, be followed *mutatis mutandis* in any proceedings consequential upon this order.

6. A merchant vessel which has cleared for a neutral port from a British or allied port, or which has been allowed to pass, having an ostensible destination to a neutral port, and proceeds to an enemy port, shall, if captured on any subsequent voyage, be liable to condemnation.

7. Nothing in this order shall be deemed to affect the liability of any vessel or goods to capture or condemnation independently of this order.

8. Nothing in this order shall prevent the relaxation of the provisions of this order in respect of the merchant vessels of any country which declares that no commerce intended for or originating in Germany or belonging to German subjects shall enjoy the protection of its flag.

ALMERIC FITZROY.

ORDER IN COUNCIL

MARCH 23, 1915

At the Court of Buckingham Palace, the 23d day of March, 1915. Present, The King's Most Excellent Majesty in Council.

Whereas by section 3 of the prize courts act, 1894, His Majesty in Council is authorized to make rules of court for regulating, subject to the provisions of the naval prize act, 1864, and the said act, the procedure and practice of prize courts within the meaning of the naval prize act, 1864, and the duties and conduct of the officers of the courts and of the practitioners therein, and for regulating the fees to be taken by the officers thereof, and the costs, charges, and expenses to be allowed to the practitioners therein:

And whereas in pursuance of the prize courts act, 1894, certain rules were made by the order of His Majesty in Council, dated the 5th day of August, 1914, and amended by the Orders of His Majesty in Council of the 30th day of September, 1914, and the 28th day of November, 1914, respectively, which said rules and amended rules were by the said orders in council directed to take effect *provisionally* in accordance with the provisions of section 2 of the Rules Publication Act, 1893, from the dates of the said Orders in Council respectively:

And whereas the provisions of section 1 of the rules publication act, 1893, were duly complied with in respect of the said rules and amended rules, and the same were *finally* made by the orders of His Majesty in Council, dated respectively, the 17th day of September, 1914, the 28th day of November, 1914, and the 3d day of February, 1915.

And whereas it is expedient that the said rules and amended rules should be further amended.

And whereas on account of urgency this order should come into immediate operation.

Now, therefore, His Majesty, by virtue of the powers in this behalf by the said act or otherwise in him vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. That in Order IX (discovery, inspection, and admission of documents and facts) of the said rules:

In rule 1, the words "upon filing an affidavit" shall be omitted.

In rule 1, instead of the words "any other party" there shall be substituted the words "any party other than the proper officer of the Crown."

2. That in Order XI (sale, appraisalment, safe custody, and inspection of prize) of the said rules, in rule 1, the following words shall be omitted: "on account of the condition of a ship, or on application of a claimant, and on or after condemnation."

3. That in Order XV (evidence and hearing) of the said rules, the following rule shall be added:

"21. Notwithstanding anything contained in these rules the proper officer of the Crown may apply to the judge for leave to administer interrogatories for the examination of any person whether a party to the cause or not."

4. That order XXIX (requisition by admiralty) of the said rules, as amended by His Majesty's Order in Council dated the 28th day of November, 1914, shall be, and the same is hereby revoked, and in lieu thereof the following order shall have effect:

"ORDER XXIX—REQUISITION.

"1. Where it is made to appear to the judge on the application of the proper officer of the Crown that it is desired to requisition on behalf of His Majesty a ship in respect of which no final decree of condemnation has been made, he shall order that the ship shall be appraised, and that upon an undertaking being given in accordance with rule 5 of this order, the ship shall be released and delivered to the Crown.

"2. Where a decree for the detention of a ship has been made in accordance with Order XXVIII, the proper officer of the Crown may file a notice (Appendix A, Form No. 55) that the Crown desires to requisition the same, and thereupon a commission (Appendix A, Form No. 56) to the marshal directing him to appraise the ship shall issue. Upon an undertaking being given in accordance with rule 5 of this order the ship shall be released, and delivered to the Crown. Service of this notice shall not be required be-

fore filing, but copies thereof shall be served upon the parties by the proper officer of the Crown as soon thereafter as possible.

"3. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the ship is required for the service of His Majesty forthwith, the judge may order the same to be forthwith released and delivered to the Crown without appraisalment.

"4. In any case where a ship has been requisitioned under the provisions of this order and whether or not an appraisalment has been made, the court may, on the application of any party, fix the amount to be paid by the Crown in respect of the value of the ship.

"5. In every case of requisition under this order an undertaking in writing shall be filed by the proper officer of the Crown for payment into court on behalf of the Crown of the appraised value of the ship, or of the amount fixed under Rule 4 of this order, as the case may be, at such time or times as the court shall declare by order that the same or any part thereof is required for the purpose of payment out of court.

"6. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the Crown desires to requisition the ship temporarily, the court may, in lieu of an order of release, make an order for the temporary delivery of the ship to the Crown, and subject as aforesaid the provisions of this order shall apply to such a requisition; provided that, in the event of the return of the ship to the custody of the court, the court may make such order as it thinks fit for the release of the undertaking given on behalf of the Crown or the reduction of the amount undertaken to be paid thereby, as the case may be; and provided also that, where the ship so requisitioned is subject to the provisions of Order XXVIII, rule 1, relating to detention, the amount for which the Crown shall be considered liable in respect of such requisition shall be the amount of the damage, if any, which the ship has suffered by reason of such temporary delivery as aforesaid.

"7. The proceedings in respect of a ship requisitioned under this order shall continue notwithstanding the requisition.

"8. In any case of requisition of a ship in respect of which no cause has been instituted, any person interested in such ship may, without issuing a writ, provided he does not intend to make a claim for restitution or damages, apply by summons for an order that the amount to be paid in respect of such ship be fixed by the court, and the judge may, on the hearing of such summons, order the ship to be appraised or to be valued, or give such other directions for fixing the amount as he may think fit."

5. That in Form 4 in Appendix A to the said rules there shall be omitted the words "commander of our ship of war" and the words "taken and seized as prize by our said ship of war."

6. This order shall take effect *provisionally* in accordance with the provisions of Section 2 of the rules publication act, 1893, from the date hereof.

ALMERIC FITZROY.

ORDER IN COUNCIL

OCTOBER 20, 1915

At the Court of Buckingham Palace, the 20th day of October, 1915. Present, The King's Most Excellent Majesty in Council.

"Whereas by the Declaration of London, Order in Council, Number 2, 1914, His Majesty was pleased to declare that during the present hostilities the provisions of the said Declaration of London should, subject to certain exceptions and modifications therein specified, be adopted and put in force by His Majesty's Government; and

"Whereas by article 57 of the said Declaration, it is provided that the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly; and

"Whereas it is no longer expedient to adopt the said article:

"Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, that from and after this date article 57 of the Declaration of London shall cease to be adopted and put in force.

"In lieu of the said article, British prize courts shall apply the rules and principles formerly observed in such courts.

"This order may be cited as 'The Declaration of London Order in Council, 1915.'

"And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's principal Secretaries of State, the president of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other judges of His Majesty's prize courts, and all governors, officers, and authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain."

ALMERIC FITZROY

ORDER IN COUNCIL

NOVEMBER 10, 1915

Restrictions on British Merchant Shipping. Licenses Necessary to Trade Between Foreign Ports.

At the Court at Buckingham Palace, the 10th day of November, 1915. Present, The King's Most Excellent Majesty in Council.

Whereas, A state of war exists between His Majesty and the German Emperor, the Emperor of Austria, King of Hungary, the Sultan of Turkey and the King of the Bulgarians:

And whereas, His Majesty holds it to be his prerogative duty as well as his prerogative right to take all steps necessary for the defense and protection of the realm:

And whereas, It has been made to appear to His Majesty that it is essential to the defense and protection of the realm that, in the exercise of his prerogatives as aforesaid, he should prohibit as from and after the first day of December, 1915, the carrying of cargo from any foreign port to any other foreign port by any British steamship registered in the United Kingdom exceeding 500 tons gross tonnage—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's dominions—unless the owner or charterer of such steamship has been granted exemption by license as hereinafter provided:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, and in exercise of his prerogatives as aforesaid and of all other powers him thereunto enabling, to order and it is hereby ordered that, from and after the first day of December, 1915, no British steamship registered in the United Kingdom exceeding 500 tons gross tonnage shall carry any cargo from any foreign port to any other foreign port—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's dominions—unless the owner or charterer of such steamship has been granted exemption by license as hereinafter provided.

And His Majesty doth hereby declare that the expression "foreign port" herein used shall mean and include any port outside His Majesty's dominions.

And His Majesty, by and with the advice aforesaid, and in exercise of his prerogatives and powers as aforesaid, is further pleased to authorize and direct the president of the Board of Trade to appoint a committee of persons to carry out and give effect to the provisions hereof, and that the said committee shall have power to grant licenses of exemption therefrom to or in favor of owners and charterers of such steamships as aforesaid, which licenses may be general in reference to classes of ships or their voyages or special.

And His Majesty is further pleased to authorize the president of the Board of Trade from time to time to add other persons as members of such committee, and to substitute as members thereof other persons for such members as may from time to time die, resign, or be or become incapable of acting thereon.

And the president of the Board of Trade is to act and to give instructions and directions accordingly.

ALMERIC FITZROY

ORDER IN COUNCIL

NOVEMBER 10, 1915

Powers to Requisition Tonnage. Vessels for Carriage of Foodstuffs.

At the Court at Buckingham Palace, the 10th day of November, 1915. Present, The King's Most Excellent Majesty in Council.

Whereas, A state of war exists between His Majesty and the German Emperor, the Emperor of Austria, King of Hungary, the Sultan of Turkey, and the King of the Bulgarians:

And whereas, His Majesty holds it to be his prerogative duty as well as his prerogative right to take all steps necessary for the defense and protection of the realm:

And whereas, It has been made to appear to His Majesty that it is essential to the defense and protection of the realm that all British ships registered in the United Kingdom should be made liable to requisition in manner hereinafter appearing for the carriage of foodstuffs and of any other articles of commerce:

fore filing, but copies thereof shall be served upon the parties by the proper officer of the Crown as soon thereafter as possible.

"3. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the ship is required for the service of His Majesty forthwith, the judge may order the same to be forthwith released and delivered to the Crown without appraisalment.

"4. In any case where a ship has been requisitioned under the provisions of this order and whether or not an appraisalment has been made, the court may, on the application of any party, fix the amount to be paid by the Crown in respect of the value of the ship.

"5. In every case of requisition under this order an undertaking in writing shall be filed by the proper officer of the Crown for payment into court on behalf of the Crown of the appraised value of the ship, or of the amount fixed under Rule 4 of this order, as the case may be, at such time or times as the court shall declare by order that the same or any part thereof is required for the purpose of payment out of court.

"6. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the Crown desires to requisition the ship temporarily, the court may, in lieu of an order of release, make an order for the temporary delivery of the ship to the Crown, and subject as aforesaid the provisions of this order shall apply to such a requisition; provided that, in the event of the return of the ship to the custody of the court, the court may make such order as it thinks fit for the release of the undertaking given on behalf of the Crown or the reduction of the amount undertaken to be paid thereby, as the case may be; and provided also that, where the ship so requisitioned is subject to the provisions of Order XXVIII, rule 1, relating to detention, the amount for which the Crown shall be considered liable in respect of such requisition shall be the amount of the damage, if any, which the ship has suffered by reason of such temporary delivery as aforesaid.

"7. The proceedings in respect of a ship requisitioned under this order shall continue notwithstanding the requisition.

"8. In any case of requisition of a ship in respect of which no cause has been instituted, any person interested in such ship may, without issuing a writ, provided he does not intend to make a claim for restitution or damages, apply by summons for an order that the amount to be paid in respect of such ship be fixed by the court, and the judge may, on the hearing of such summons, order the ship to be appraised or to be valued, or give such other directions for fixing the amount as he may think fit."

5. That in Form 4 in Appendix A to the said rules there shall be omitted the words "commander of our ship of war" and the words "taken and seized as prize by our said ship of war."

6. This order shall take effect *provisionally* in accordance with the provisions of Section 2 of the rules publication act, 1893, from the date hereof.

ALMERIC FITZROY.

ORDER IN COUNCIL

OCTOBER 20, 1915

At the Court of Buckingham Palace, the 20th day of October, 1915. Present, The King's Most Excellent Majesty in Council.

"Whereas by the Declaration of London, Order in Council, Number 2, 1914, His Majesty was pleased to declare that during the present hostilities the provisions of the said Declaration of London should, subject to certain exceptions and modifications therein specified, be adopted and put in force by His Majesty's Government; and

"Whereas by article 57 of the said Declaration, it is provided that the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly; and

"Whereas it is no longer expedient to adopt the said article:

"Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, that from and after this date article 57 of the Declaration of London shall cease to be adopted and put in force.

"In lieu of the said article, British prize courts shall apply the rules and principles formerly observed in such courts.

"This order may be cited as 'The Declaration of London Order in Council, 1915.'

"And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's principal Secretaries of State, the president of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other judges of His Majesty's prize courts, and all governors, officers, and authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain."

ALMERIC FITZROY

ORDER IN COUNCIL

NOVEMBER 10, 1915

Restrictions on British Merchant Shipping. Licenses Necessary to Trade Between Foreign Ports.

At the Court at Buckingham Palace, the 10th day of November, 1915. Present, The King's Most Excellent Majesty in Council.

Whereas, A state of war exists between His Majesty and the German Emperor, the Emperor of Austria, King of Hungary, the Sultan of Turkey and the King of the Bulgarians:

And whereas, His Majesty holds it to be his prerogative duty as well as his prerogative right to take all steps necessary for the defense and protection of the realm:

And whereas, It has been made to appear to His Majesty that it is essential to the defense and protection of the realm that, in the exercise of his prerogatives as aforesaid, he should prohibit as from and after the first day of December, 1915, the carrying of cargo from any foreign port to any other foreign port by any British steamship registered in the United Kingdom exceeding 500 tons gross tonnage—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's dominions—unless the owner or charterer of such steamship has been granted exemption by license as hereinafter provided:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, and in exercise of his prerogatives as aforesaid and of all other powers him thereunto enabling, to order and it is hereby ordered that, from and after the first day of December, 1915, no British steamship registered in the United Kingdom exceeding 500 tons gross tonnage shall carry any cargo from any foreign port to any other foreign port—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's dominions—unless the owner or charterer of such steamship has been granted exemption by license as hereinafter provided.

And His Majesty doth hereby declare that the expression "foreign port" herein used shall mean and include any port outside His Majesty's dominions.

And His Majesty, by and with the advice aforesaid, and in exercise of his prerogatives and powers as aforesaid, is further pleased to authorize and direct the president of the Board of Trade to appoint a committee of persons to carry out and give effect to the provisions hereof, and that the said committee shall have power to grant licenses of exemption therefrom to or in favor of owners and charterers of such steamships as aforesaid, which licenses may be general in reference to classes of ships or their voyages or special.

And His Majesty is further pleased to authorize the president of the Board of Trade from time to time to add other persons as members of such committee, and to substitute as members thereof other persons for such members as may from time to time die, resign, or be or become incapable of acting thereon.

And the president of the Board of Trade is to act and to give instructions and directions accordingly.

ALMERIC FITZROY

ORDER IN COUNCIL

NOVEMBER 10, 1915

Powers to Requisition Tonnage. Vessels for Carriage of Foodstuffs.

At the Court at Buckingham Palace, the 10th day of November, 1915. Present, The King's Most Excellent Majesty in Council.

Whereas, A state of war exists between His Majesty and the German Emperor, the Emperor of Austria, King of Hungary, the Sultan of Turkey, and the King of the Bulgarians:

And whereas, His Majesty holds it to be his prerogative duty as well as his prerogative right to take all steps necessary for the defense and protection of the realm:

And whereas, It has been made to appear to His Majesty that it is essential to the defense and protection of the realm that all British ships registered in the United Kingdom should be made liable to requisition in manner hereinafter appearing for the carriage of foodstuffs and of any other articles of commerce:

Now, therefore, His Majesty is pleased by and with the advice of His Privy Council, and in exercise of his prerogatives as aforesaid and of all other powers him thereunto enabling, to order, and it is hereby ordered, that any British ship registered in the United Kingdom may until further order be requisitioned by and on behalf of His Majesty for the carriage of foodstuffs and of any other articles of commerce, and such requisition is to take effect upon notice of requisition being served as hereinafter provided on the owner of any such ship:

And His Majesty is further pleased, by and with the advice aforesaid, to authorize and direct the President of the Board of Trade to give effect to this order by causing notice of requisition to be served on the owner of any such ship.

And His Majesty is further pleased, by and with the advice aforesaid, to declare that service of notice of requisition on an owner shall be deemed sufficient and effective if served in the case of an individual owner by being addressed to such individual owner and left at his last-known place of business or abode, and in case of joint owners by being addressed to such joint owners and left at the last-known business addresses or places of abode of such joint owners, and in the case of a company or corporation by being addressed to such company or corporation and left at the registered or other address of such company or corporation, or in any of the aforesaid cases by being addressed to the managing owner, ship's husband, or other the person to whom the management of the ship is by law entrusted by or on behalf of the owners, and left at the registered or other last-known address or place of abode of such managing owner, ship's husband, or other such person, as the case may be.

And His Majesty is further pleased, by and with the advice aforesaid, to declare that any notice of requisition which the President of the Board of Trade may cause to be served hereunder, may be signed by any person or persons from time to time authorized for such purpose either generally or specially by the President of the Board of Trade.

And the President of the Board of Trade is to give instructions and directions accordingly.

ALMERIC FITZROY.

XI

DIPLOMATIC CORRESPONDENCE

The following papers are believed to contain all the important communications exchanged between the Government of the United States and that of Great Britain, with respect of the rights of neutral trade, so far as these are at present accessible. In addition are included salient communications exchanged with the German Government.

When not otherwise indicated, the text of the papers is that appearing in the two volumes, dated respectively May 27 and October 21, 1915, and other memoranda, published by the Department of State. For the text of documents which the Department of State has not seen fit to include in its publications, the only resource has been the daily press; but only communications officially allowed to become public have been noticed.

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DIPLOMATIC CORRESPONDENCE

Ambassador Page to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,

London, August 5, 1914.

Mr. Page reports that he has received from the Foreign Office list of articles which the British Government have declared to be absolute contraband and conditional contraband, respectively, during the present war:

PROCLAMATION.

August 4, 1914. No. 1250.

Specifying the articles to be treated as contraband of war.

GEORGE R. I.

Whereas a state of war exists between us on the one hand and the German Empire on the other:

And whereas it is necessary to specify the articles which it is our intention to treat as contraband of war:

Now, therefore, we do hereby declare, by and with the advice of our Privy Council, that during the continuance of the war or until we do give further public notice the articles enumerated in Schedule I hereto will be treated as absolute contraband, and the articles enumerated in Schedule II hereto will be treated as conditional contraband:

SCHEDULE I.

The following articles will be treated as absolute contraband:

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
2. Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
3. Powder and explosives specially prepared for use in war.
4. Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.
5. Clothing and equipment of a distinctively military character.
6. All kinds of harness of a distinctively military character.
7. Saddle, draft, and pack animals suitable for use in war.
8. Articles of camp equipment and their distinctive component parts.
9. Armor plates.
10. Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.
11. Aeroplanes, airships, balloons, and air craft of all kinds, and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and air craft.
12. Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land and sea.

SCHEDULE II.

The following articles will be treated as conditional contraband:

1. Foodstuffs.
 2. Forage and grain suitable for feeding animals.
 3. Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.
 4. Gold and silver in coin or bullion; paper money.
 5. Vehicles of all kinds available for use in war and their component parts.
 6. Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.
 7. Railway material, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs and telephones.
 8. Fuel; lubricants.
 9. Powder and explosives not specially prepared for use in war.
 10. Barbed wire, and implements for fixing and cutting the same.
 11. Horseshoes and shoeing materials.
 12. Harness and saddlery.
 13. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.
- Given at our court at Buckingham Palace, this fourth day of August, in the year of our Lord one thousand nine hundred and fourteen, etc., etc.

The Secretary of State to Ambassador W. H. Page.¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 6, 1914, 1 p.m.

Mr. Bryan instructs Mr. Page to inquire whether the British Government is willing to agree that the laws of naval warfare as laid down by the Declaration of London of 1909 shall be applicable to naval warfare during the present conflict in Europe provided that the Governments with whom Great Britain is or may be at war also agree to such application. Mr. Bryan further instructs Mr. Page to state that the Government of the United States believes that an acceptance of these laws by the belligerents would prevent grave misunderstandings which may arise as to the relations between neutral powers and the belligerents. Mr. Bryan adds that it is earnestly hoped that this inquiry may receive favorable consideration.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, August 22, 1914, 12 midnight.

Mr. Gerard refers to Department's August 19, 4 p. m., and says his August 20, 1 a. m., by way of Copenhagen, states that the German Government will apply the Declaration of London, provided its provisions are not disregarded by other belligerents.

Ambassador W. H. Page to the Secretary of State.

AMERICAN EMBASSY,
London, August 27, 1914.

SIR: I have the honor to transmit herewith inclosed a copy of the note from the Foreign Office I telegraphed you on the 26th instant (No. 483) defining the attitude of the British Government with regard to the so-called Declaration of London, 1909, together with a copy of a memorandum which accompanied the note, and a copy of the King's Order in Council of the 20th instant relating to this matter.

There will also be found attached a copy of a circular note I have just received from the Foreign Office relating to the same order in council and to the rules governing the proceedings in the British prize courts. Another copy of the King's Order in Council of the 20th instant, which accompanied the circular note, is inclosed herewith, and there will be found as well, in the pouch which accompanies this dispatch, six copies of the Prize Court Rules.

I have, etc.,

WALTER HINES PAGE.

[Inclosure 1.]

The Minister for Foreign Affairs to Ambassador W. H. Page.

FOREIGN OFFICE,
London, August 22, 1914.

YOUR EXCELLENCY: On the 7th instant you were so good as to address to me a note inquiring, pursuant to instructions from the Secretary of State at Washington, whether His Majesty's Government were willing to agree that the laws of naval warfare, as laid down by the Declaration of London, 1909, should be applicable to naval warfare during the present European conflict, provided that the Governments with whom Great Britain is at war, or with whom her relations are not normal, also agree to such application.

Your Excellency added that it was the belief of your Government that the acceptance of these laws by the belligerents would prevent the possibility of grave misunderstandings as to the relations between belligerents and neutrals.

I have the honor to inform Your Excellency that His Majesty's Government, who attach great importance to the views expressed in Your Excellency's note and are animated by a keen desire to consult so far as possible the interests of neutral countries, have given this matter their most careful consideration and have pleasure in stating that they have decided to adopt generally the rules of the declaration in question, subject to certain modifications and additions which they judge indispensable to the efficient conduct of their

¹(Same mutatis mutandis to: The American Embassies at St. Petersburg, Paris, Berlin, and Vienna, and the American Legation at Brussels.)

naval operations. A detailed explanation of these additions and modifications is contained in the inclosed memorandum.

The necessary steps to carry the above decision into effect have now been taken by the issue of an Order in Council, of which I have the honor to inclose copies herein for Your Excellency's information and for transmission to your Government.

I may add that His Majesty's Government, in deciding to adhere to the rules of the Declaration of London, subject only to the aforesaid modifications and additions, have not waited to learn the intentions of the enemy Governments, but have been actuated by a desire to terminate at the earliest moment the condition of uncertainty which has been prejudicing the interests of neutral trade.

I have, etc.,

E. A. CREWE.

[Enclosure 2.]

MEMORANDUM.

1. The lists of contraband already published by His Majesty are substituted for those contained in Articles 22 and 24 of the Declaration of London. Lists similar to those published by His Majesty have been issued by the French Government.

2. His Majesty's Government do not feel able to accept in its entirety the rule laid down in Article 38 of the Declaration. It has been the practice of the British Navy to treat as liable to capture a vessel which carried contraband of war with false papers if she was encountered on the return voyage, and to this exception His Majesty's Government feel it necessary to adhere.

3. The peculiar conditions in the present war due to the fact that neutral ports such as Rotterdam are the chief means of access to a large part of Germany and that exceptional measures have been taken in the enemy country for the control by the Government of the entire supply of foodstuffs have convinced His Majesty's Government that modifications are required in the applications of Articles 34 and 35 of the Declaration. These modifications are contained in paragraphs 3 and 5 of the accompanying Order in Council.

4. Article 15 of the Declaration contains a provision as to presumptive knowledge of the blockade in certain cases if the vessel has sailed from a neutral port. No mention is made of British or allied enemy ports. These omissions are supplied by Article 4 of the Order in Council.

5. The Order in Council also provides for the acceptance of the very valuable commentary on the Declaration which was embodied in the General Report prepared by Monsieur Renault.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, September 4, 1914.

I repeat my August tenth a. m.

The Foreign Office sends me a list of the articles which the German Government intends to treat as contraband of war in pursuance of the German prize ordinance printed in Reichgesetzblatt, 1914, No. 4. I find the list agrees exactly with article 22, Nos. 1 to 11, of the Declaration of London, in respect of absolute contraband and to article 24, Nos. 1 to 14, in respect of conditional contraband. The German Government state that the ordinance embodies the substance of the Declaration and that they will apply its provisions if they are not disregarded by other belligerents. They request to be informed what attitude the other powers have assumed.

Copies of the ordinance have been mailed to you and to the London Embassy.

GERARD.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, September 30, 1914.

Following proclamation regarding contraband of war has been received from the Foreign Office.

PAGE.

PROCLAMATION.

September 21, 1914. No. 1410.

Specifying certain additional articles which are to be treated as contraband of war.
GEORGE R. I.

Whereas on the 4th day of August last, we did issue our royal proclamation specifying the articles which it was our intention to treat as contraband of war during the war between us and the German Emperor.

And whereas on the 12th day of August last we did by our royal proclamation of that date extend our proclamation afore-mentioned to the war between us and the Emperor of Austria, King of Hungary.

Whereas on the twenty-first day of September, 1914, We did by Our Royal Proclamation of that date make certain additions to the list of articles to be treated as contraband of war; and

Whereas it is expedient to consolidate the said lists and to make certain additions thereto:

Now, therefore, We do hereby declare, by and with the advice of Our Privy Council, that the lists of contraband contained in the schedules to Our Royal Proclamations of the fourth day of August and the twenty-first day of September aforementioned are hereby withdrawn, and that in lieu thereof during the continuance of the war or until We do give further public notice the articles enumerated in Schedule I. hereto will be treated as absolute contraband, and the articles enumerated in Schedule II. hereto will be treated conditional contraband.

SCHEDULE I.

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
2. Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
3. Powder and explosives specially prepared for use in war.
4. Sulphuric acid.
5. Gun mountings, limber boxes, limbers, military wagons, field forges and their distinctive component parts.
6. Range-finders and their distinctive component parts.
7. Clothing and equipment of a distinctively military character.
8. Saddle, draft, and pack animals suitable for use in war.
9. All kinds of harness of a distinctively military character.
10. Articles of camp equipment and their distinctive component parts.
11. Armor plates.
12. Hæmatite iron ore and hæmatite pig iron.
13. Iron pyrites.
14. Nickel ore and nickel.
15. Ferrochrome and chrome ore.
16. Copper, unwrought.
17. Lead, pig, sheet, or pipe.
18. Aluminium.
19. Ferro-silica.
20. Barbed wire, and implements for fixing and cutting the same.
21. Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war.
22. Aeroplanes, airships, balloons, and aircraft of all kinds, and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and aircraft.
23. Motor vehicles of all kinds and their component parts.
24. Motor tires; rubber.
25. Mineral oils and motor spirit, except lubricating oils.
26. Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land and sea.

SCHEDULE II.

1. Foodstuffs.
2. Forage and feedings stuff for animals.
3. Clothing, fabrics for clothing, and boots and shoes suitable for use in war.
4. Gold and silver in coin or bullion; paper money.
5. Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
6. Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.
7. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
8. Fuel, other than mineral oils. Lubricants.
9. Powder and explosives not specially prepared for use in war.
10. Sulphur.
11. Glycerine.
12. Horseshoes and shoeing materials.
13. Harness and saddlery.
14. Hides of all kinds, dry or wet; pigskins, raw or dressed; leather, undressed or dressed, suitable for saddlery, harness, or military boots.
15. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

Given at our court at Buckingham Palace, this twenty-ninth day of October, in the year of our Lord one thousand nine hundred and fourteen, etc., etc.

Consul General Skinner to the Secretary of State.

[Telegram—Extract.]

AMERICAN CONSULATE GENERAL,
London, November 17, 1914—6 p. m.

Foreign Office states: "Cottonseed cake, being feeding stuff for cattle, is conditional contraband and will be treated in strict accordance with Order in Council, article 1, sub-article 3."

SKINNER.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, November 19, 1914.

Proclamation of November 17th defines all rough or unworked lumber as conditional contraband under number nine or article twenty-three of German prize ordinance because susceptible of use as fuel. Exceptions are *lignum vitæ*, palisander, ebony, and similar woods and all woods greatly enhanced in value through working by hand or machine.

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, November 23, 1914.

German Government has added following to list of conditional contraband:

No. 17. Woods of all kinds, rough or worked, that is hewn, sawed, planed, grooved, etc.; cylinder tar.

No. 18. Sulphur, crude or refined, and sulphuric acid.

GERARD.

*Ambassador Gerard to the Secretary of State.*AMERICAN EMBASSY,
Berlin, November 23, 1914.

SIR: I have the honor to transmit to you herewith translations of two notes received from the imperial foreign office conveying notification of additions to the original lists of articles regarded as contraband by the German Government, which, as reported in my telegram of August 10, 1 p. m., corresponded in all respects with articles 22 and 24 of the Declaration of London.

I have, etc.,

JAMES W. GERARD.

[Inclosure 1—Translation.]

NOTE VERBALE.

In supplement to its note verbale of August 6, 1914, IIIa.9222, the foreign office has the honor to inform the embassy of the United States of America that during the present hostilities the following materials will be considered as conditional contraband by Germany in addition to the articles and materials designated under No. 11, 1-14:

15. Copper (unworked) and
16. Lead in blocks, plates or tubes.

The foreign office begs that the embassy of the United States of America will kindly inform its Government of the above as soon as possible.

Berlin, October 22, 1914.

[Inclosure 2—Translation.]

NOTE VERBALE.

In supplement to its notes verbales of August 6, 1914, and October 22, 1914, IIIa.9222 and 17064, the foreign office has the honor to inform the embassy of the United States of America that during the present hostilities the following will be considered by Germany as conditional contraband in addition to the articles and materials designated under 11, 1-16:

17. Woods of all kinds, rough or treated (in particular hewn, sawed, planed, grooved), charcoal, cylinder tar.
18. Sulphur, crude or refined, sulphuric acid.

The foreign office begs that the embassy will kindly notify its Government of the above as soon as possible.
BERLIN, November 23, 1914.

*The German Ambassador to the Secretary of State.**

According to an Order in Council of August 20, 1914, the British Government intends to act, during the present hostilities, in accordance with the provisions of the Declaration of London relative to the law of naval warfare of February 26, 1909, subject to some additions and modifications. However, these additions and modifications are of such a nature that they obliterate the said declaration in several vital points and, at the

* Not printed in *Diplomatic Correspondence*, etc. *The New York Times*, November 24, 1914.

same time, encroach on the accepted rules of international law. Further modifications of great consequence are contained in the proclamation of September 21, 1914.

FIRST. The most vital modifications of the Declaration of London are contained in the rule concerning conditional contraband under Nos. 3 and 5 of the above-mentioned Order in Council.

Article 33 of the Declaration of London defines that there can be no question of conditional contraband except in the case where cargo is destined for the use of the administrative departments or the military forces of the hostile power. Moreover, according to Article 35 the question whether goods are conditional contraband or not can under no circumstances arise when the vessel is sailing for a neutral port.

The above provisions which are, in the main, in accordance with the accepted rules of international law and represent the outcome of the just weighing of the interests of the belligerents on the one side and of the neutral countries on the other side, are as good as annulled by the said Order in Council, for, according to its No. 3 the hostile destination of the cargo is to be presumed in every case where the consignee of the cargo is under the control of the authorities of the hostile State. This, however, means nothing else but that each and every cargo shipped to the hostile country is liable to be seized because all inhabitants of that country are under the control of the authorities. This rule is supplemented by No. 5 of the said Order, which sets forth that all vessels on the voyage for neutral ports are liable to be seized for having conditional contraband on board. Thus, the rule of the continuous voyage, applicable only in the case of absolute contraband, is declared applicable also with regard to conditional contraband in contravention of Article 35 of the Declaration of London. In this manner the more lenient regulations with regard to conditional contraband, established by the Declaration of London, are simply set aside with the result that conditional contraband is virtually on the same footing as absolute contraband. In consequence the supply by neutrals of objects of conditional contraband, especially of foodstuffs, destined only for the consumption of the inhabitants of a belligerent country, which is universally considered legitimate in international law, is practically rendered illusory, whereby the interests of the belligerents as well as neutrals are violated in a manner contrary to the law of nations.

As events at the theatres of naval warfare prove, England proceeds in this respect in the most high-handed manner, even enforcing a control over supplies destined for the countries adjacent to Germany, and thereby endangering their victualing.

SECOND. The British Government considers itself at liberty to totally disregard the lists of absolute contraband, and of merchandise not to be declared contraband (free list) contained in articles XXII, XXIV and XXVIII of the Declaration of London. In its definition of contraband of August 5, 1914, specially upheld by No. 1 of the said Order in Council, it has declared airships and parts thereof absolute contraband, while according to No. 8 of Article XXIV of the Declaration of London, such objects can only be regarded as conditional contraband. Above all, by proclamation of September 21, 1914, it has declared rubber, hides and skins, as well as various kinds of iron ore, to be conditional contraband, although these articles are not at all, or only in an indirect way, suitable for purposes of warfare, and were therefore placed in the free list. (Article XXVIII, Nos. 3, 4 and 6.) In this manner the universally accepted principle of international law that neutral trade with objects for exclusively peaceful use must not be disturbed by the belligerents is wantonly set aside.

THIRD. No. 2 of the said Order in Council contains a further aggravation of the rules concerning contraband. For Article 38 of the Declaration of London, in accordance with the accepted principle of international law, permits the seizure of a vessel for carrying contraband only as long as such is on board the vessel; whereas the British Government claims the right of seizing the vessel during its entire voyage, if carriage of contraband has taken place under false shipping documents. In this manner neutral shipping with the belligerent territory is exposed to constant chicane, since vessels may be seized not only by reason of evident facts, viz., the existence of contraband on board, but also by reason of a frequently not provable affirmation with regard to their previous acts.

FOURTH. By the rule established under No. 4 of the said Order in Council the right of seizure on account of blockade running is unduly extended, since according thereto knowledge of the blockade is to be assumed even in the case that, after a certain time since the notification of the blockade of an enemy port to the local authorities has elapsed, a vessel has sailed from another enemy port. By this rule, the British Government attempts, beyond the limits drawn by international law, to put the authorities of the hostile country into the service of the British naval forces, and to enforce this service by the capture of neutral vessels.

FIFTH. According to an acknowledged principle of international law confirmed by the Declaration of London, only such persons traveling on board of merchant vessels are liable to be made prisoners of war as have already incorporated in the hostile military

forces. This rule is clearly established by Article 45, No. 2, in conjunction with Article 47 of the Declaration of London, and is, moreover, treated in detail in the general report of the drafting committee of the Conference of London, in the first paragraphs to notes to 45. As it is set forth in the general report, for judicial reasons as well as for practical considerations, it was agreed at the conference that persons belonging to the active military forces, exclusively, shall be liable to be made prisoners of war when traveling on neutral ships, not, however, persons who, in order to fulfil their military services, are returning to their country, as in the case of members of the reserve. Although the said Order in Council has acknowledged as binding the above-mentioned two articles, as well as the notes of the general report, the British naval forces have, nevertheless, seized on merchant vessels, sailing under the Dutch, Norwegian, or Italian flag, German subjects liable to do military service, but not yet incorporated in the military forces, and made them prisoners of war. In this manner they have not only gravely violated the established principles of international law, as expressed in the Declaration of London, but also infringed on an act of their own legislation, *i.e.*, the said Order in Council.

According to a decree of the President of the French Republic, published in the *Journal Officiel* of August 6, 1914, France has taken the same stand as Great Britain in the said Order in Council. Moreover, in the same manner as the British naval forces, the French naval forces have captured German persons liable to do military service, on neutral vessels, notably on Dutch and Spanish vessels.

It is thus evident that the regulations issued by Great Britain and France, and even more so their respective naval forces, are disregarding in the most wanton way the provisions embodied in the Declaration of London relative to the law of naval warfare.

It is Great Britain's acknowledged aim to hit not only the military but also the commercial power of their adversaries, by way of paralyzing neutral trade, and in pursuing this purpose they encroach in an unjustifiable manner, not only upon the legitimate commerce between the neutrals and the enemy, but also upon the commerce among the neutral countries themselves. It is true that, thus far, the Declaration of London has not been ratified. However, in its preamble it has been specially acknowledged by the delegates of all its signatory powers, including those of Great Britain and France, that, in the main, the provisions of the Declaration of London are in accordance with the generally acknowledged principles of international law, which must be considered much more serious, because in the course of former wars in which she was neutral, notably in the Russo-Japanese War, Great Britain has always protested most emphatically against violations of international law of the indicated order. (See the *British Blue Book*, Russia No. 1, 1903, correspondence respecting contraband of war, page 8, etc.)

The Imperial German Government has thus far strictly observed the Declaration of London and has embodied the contents of its provisions in the German prize court regulations of September 30, 1914, (cf. *Reichsgesetzblatt*, 1914, page 275). It has not changed this attitude even in view of the flagrant violations of law committed by its adversaries.

However, The Imperial German Government must now study the question whether it will be able to continue to maintain the above attitude if the enemy powers abide by the procedure observed by them, and if the neutral powers allow such violations of the principles of neutrality to go on to the detriment of German interest.

The Imperial German Government considers it, therefore, of interest to learn which position the neutral powers intend to take toward the attitude adopted by Great Britain and France contrary to international law, and particularly whether it is their intention to take measures against the acts of violence committed on board their merchant vessels against German subjects and German property.

Consul General Skinner to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,

London, November 25, 1914.

British authorities inform me to-day in their view toluene and toluol are contraband.

SKINNER.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,

Berlin, December 3, 1914.

SIR: With reference to my dispatch No. 280, dated November 23, 1914, I have the honor to transmit to you herewith a copy, in translation, of a note received from the imperial German foreign office, dated November 30, 1914, in reply to an inquiry addressed by me to the foreign office to ascertain whether Germany regards quebracho wood in logs as contraband of war. It appears from the note of the foreign office that quebracho wood is held by the German Government to fall under the order of the imperial chancellor of November 23, 1914, and to be considered as conditional contraband.

I have, etc.

JAMES W. GERARD.

[Inclosure—Translation.]

NOTE VERBALE.

The foreign office has the honor to inform the embassy of the United States of America, in reply to the note verbale of the 20th instant (F. O. No. 1165), that quebracho wood is not to be considered as fuel within the meaning of article 23, No. 9, of the German prize ordinance, nor to be deemed contraband for this reason.

However, by an order of the imperial chancellor, dated November 23, 1914, Reichs-Gesetzblatt, page 481, all kinds of woods have been expressly declared to be conditional contraband, and quebracho wood in logs is included in such declaration.

BERLIN, November 30, 1914.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,

Berlin, December 8, 1914.

SIR: With reference to the department's cable, No. 749, of December 3, 1914, and to my dispatch, No. 280, of November 23, 1914, I have the honor to transmit to you herewith three copies of the Reichs-Gesetzblatt, 1914, No. 101, containing the proclamation of the German Government relative to the treatment of wood, cylinder tar, sulphur, and sulphuric acid as conditional contraband.

I have, etc.

JAMES W. GERARD.

[Inclosure—Translation.]

Reichs-Gesetzblatt. Year 1914. No. 101.

(No. 4549.) Addition to the prize ordinance of September 30, 1909 (Reichs-Gesetzblatt, 1914, p. 275) of November 23, 1914.

I hereby prescribe in addition to the ordinance of October 18, 1914 (Reichs-Gesetzblatt, p. 441), that in the prize list of September 30, 1909, under the numeral 23, the following two further numbers be subjoined:

17. Woods of every kind, in the rough or manufactured (especially also cut, sawn, planed, grooved), wood-tar.

18. Sulphur, raw or refined, sulphuric acid.

Berlin, November 23, 1914.

Vice Imperial Chancellor,

DELBRÜCK.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,

Berlin, December 15, 1914.

SIR: With reference to my telegram of even date, I have the honor to transmit to you herewith five copies of a proclamation of the German Government, dated December 14, 1914, declaring aluminum and nickel to be conditional contraband. A translation of the proclamation is likewise appended.

I have, etc.

JAMES W. GERARD.

[Inclosure 1—Translation.]

Supplement to the prize ordinance of September 30, 1909. (Reichsgesetzblatt, 1914, page 275.)

In supplement to the order of November 23, 1914 (Reichsgesetzblatt, page 481), I hereby order that the following two numbers shall be added to article 23 of the prize ordinance of September 30, 1909:

19. Aluminum.

20. Nickel.

Berlin, December 14, 1914.

Vice Imperial Chancellor.

(Signed) DELBRÜCK.

[Inclosure 2—Translation.]

NOTE VERBALE.

The foreign office has the honor to inform the embassy of the United States of America, in supplement to the notes verbale of August 6, October 22, and November 23, 1914, Nos. IIIa9222, 17064, and 19785 that during the present hostilities the following articles will be considered as conditional contraband by Germany, in addition to those recited in the notes verbale mentioned, Nos. 1-18:

19. Aluminum.
20. Nickel.

The foreign office begs that the embassy would be good enough to inform its Government of the above as soon as possible.

Berlin, December 14, 1914.

Consul General Skinner to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE GENERAL,
London, December 24, 1914.

Mr. Skinner states that radically amended contraband list is promulgated by proclamation of December 23, 1914, as follows:

PROCLAMATION.

December 23, 1914.

Revising the List of Articles to be Treated as Contraband of War.

GEORGE R. I.

Whereas on the 4th day of August, 1914, we did issue our royal proclamation specifying the articles which it was our intention to treat as contraband of war during the war between us and the German Emperor; and

Whereas on the 12th day of August, 1914, we did by our royal proclamation of that date extend our proclamation aforementioned to the war between us and the Emperor of Austria, King of Hungary; and

Whereas on the 21st day of September, 1914, we did by our royal proclamation of that date make certain additions to the list of articles to be treated as contraband of war; and

Whereas on the 29th day of October, 1914, we did by our royal proclamation of that date withdraw the said lists of contraband and substitute therefor the lists contained in the schedules to the said proclamation; and

Whereas it is expedient to make certain alterations in and additions to the said lists:

Now, therefore, we do hereby declare, by and with the advice of our Privy Council, that the lists of contraband contained in the schedules to our royal proclamation of the twenty-ninth day of October aforementioned are hereby withdrawn, and that in lieu thereof during the continuance of the war or until we do give further public notice the articles enumerated in Schedule I hereto will be treated as absolute contraband, and the articles enumerated in Schedule II hereto will be treated as conditional contraband.

SCHEDULE I.

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
2. Projectiles, charges, and cartridges of all kinds and their distinctive component parts.
3. Powder and explosives specially prepared for use in war.
4. Ingredients of explosives, viz, nitric acid, sulphuric acid, glycerine, acetone, calcium acetate and all other metallic acetates, sulphur, potassium nitrate, the fractions of the distillation products of coal tar between benzol and cresol, inclusive, aniline, methylaniline, dimethylaniline, ammonium perchlorate, sodium perchlorate, sodium chlorate, barium chlorate, ammonium nitrate, cyanamide, potassium chlorate, calcium nitrate, mercury.
5. Resinous products, camphor, and turpentine (oil and spirit).
6. Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.
7. Range-finders and their distinctive component parts.
8. Clothing and equipment of a distinctively military character.
9. Saddle, draught, and pack animals suitable for use in war.
10. All kinds of harness of a distinctively military character.
11. Articles of camp equipment and their distinctive component parts.
12. Armour plates.
13. Ferro alloys, including ferro-tungsten, ferro-molybdenum, ferro-manganese, ferro-vanadium, ferro-chrome.
14. The following metals: Tungsten, molybdenum, vanadium, nickel, selenium, cobalt, hæmatite pig-iron, manganese.
15. The following ores: Wolframite, scheelite, molybdenite, manganese ore, nickel ore, chrome ore, hæmatite iron ore, zinc ore, lead ore, bauxite.
16. Aluminum, alumina, and salts of aluminum.
17. Antimony, together with the sulphides and oxides of antimony.
18. Copper, unwrought and part wrought, and copper wire.
19. Lead, pig, sheet, or pipe.
20. Barbed wire, and implements for fixing and cutting the same.
21. Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war.
22. Submarine sound signaling apparatus.
23. Aeroplanes, airships, balloons, and aircraft of all kinds, and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and aircraft.

24. Motor vehicles of all kinds and their component parts.
25. Tires for motor vehicles and for cycles, together with articles or materials especially adapted for use in the manufacture or repair of tires.
26. Rubber (including raw, waste, and reclaimed rubber) and goods made wholly of rubber.
27. Iron pyrites.
28. Mineral oils and motor spirit, except lubricating oils.
29. Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land and sea.

SCHEDULE II.

1. Foodstuffs.
2. Forage and feeding stuffs for animals.
3. Clothing, fabrics for clothing, and boots and shoes suitable for use in war.
4. Gold and silver in coin or bullion; paper money.
5. Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
6. Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.
7. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
8. Fuel, other than mineral oils. Lubricants.
9. Powder and explosives not specially prepared for use in war.
10. Horseshoes and shoeing materials.
11. Harness and saddlery.
12. Hides of all kinds, dry or wet; pigskins, raw or dressed; leather, undressed or dressed, suitable for saddlery, harness, or military boots.
13. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

Given at our court at Buckingham Palace, this Twenty-third day of December, in the year of our Lord one thousand nine hundred and fourteen, etc., etc.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 26, 1914.

The present condition of American foreign trade resulting from the frequent seizures and detentions of American cargoes destined to neutral European ports has become so serious as to require a candid statement of the views of this Government in order that the British Government may be fully informed as to the attitude of the United States toward the policy which has been pursued by the British authorities during the present war.

You will, therefore, communicate the following to His Majesty's principal secretary of state for foreign affairs, but in doing so you will assure him that it is done in the most friendly spirit and in the belief that frankness will better serve the continuance of cordial relations between the two countries than silence, which may be misconstrued into acquiescence in a course of conduct which this Government can not but consider to be an infringement upon the rights of American citizens.

The Government of the United States has viewed with growing concern the large number of vessels laden with American goods destined to neutral ports in Europe, which have been seized on the high seas, taken into British ports and detained sometimes for weeks by the British authorities. During the early days of the war this Government assumed that the policy adopted by the British Government was due to the unexpected outbreak of hostilities and the necessity of immediate action to prevent contraband from reaching the enemy. For this reason it was not disposed to judge this policy harshly or protest it vigorously, although it was manifestly very injurious to American trade with the neutral countries of Europe. This Government, relying confidently upon the high regard which Great Britain has so often exhibited in the past for the rights of other nations, confidently awaited amendment of a course of action which denied to neutral commerce the freedom to which it was entitled by the law of nations.

This expectation seemed to be rendered the more assured by the statement of the foreign office early in November that the British Government were satisfied with guarantees offered by the Norwegian, Swedish, and Danish Governments as to nonexportation of contraband goods when consigned to named persons in the territories of those Governments, and that orders had been given to the British fleet and customs authorities to restrict interference with neutral vessels carrying such cargoes so consigned to verification of ship's papers and cargoes.

It is therefore a matter of deep regret that, though nearly five months have passed since the war began, the British Government have not materially changed their policy and do not treat less rigorously ships and cargoes passing between neutral ports in the peaceful pursuit of lawful commerce, which belligerents should protect rather than in-

terrupt. The greater freedom from detention and seizure which was confidently expected to result from consigning shipments to definite consignees, rather than "to order," is still awaited.

It is needless to point out to His Majesty's Government, usually the champion of the freedom of the seas and the rights of trade, that peace, not war, is the normal relation between nations and that the commerce between countries which are not belligerents should not be interfered with by those at war unless such interference is manifestly an imperative necessity to protect their national safety, and then only to the extent that it is a necessity. It is with no lack of appreciation of the momentous nature of the present struggle in which Great Britain is engaged and with no selfish desire to gain undue commercial advantage that this Government is reluctantly forced to the conclusion that the present policy of His Majesty's Government toward neutral ships and cargoes exceeds the manifest necessity of a belligerent and constitutes restrictions upon the rights of American citizens on the high seas which are not justified by the rules of international law or required under the principle of self-preservation.

The Government of the United States does not intend at this time to discuss the propriety of including certain articles in the lists of absolute and conditional contraband, which have been proclaimed by His Majesty. Open to objection as some of these seem to this Government, the chief ground of present complaint is the treatment of cargoes of both classes of articles when bound to neutral ports.

Articles listed as absolute contraband, shipped from the United States and consigned to neutral countries, have been seized and detained on the ground that the countries to which they were destined have not prohibited the exportation of such articles. Unwarranted as such detentions are, in the opinion of this Government, American exporters are further perplexed by the apparent indecision of the British authorities in applying their own rules to neutral cargoes. For example, a shipment of copper from this country to a specified consignee in Sweden was detained because, as was stated by Great Britain, Sweden had placed no embargo on copper. On the other hand, Italy not only prohibited the export of copper, but, as this Government is informed, put in force a decree that shipments to Italian consignees or "to order," which arrive in ports of Italy can not be exported or transshipped. The only exception Italy makes is of copper which passes through that country in transit to another country. In spite of these decrees, however, the British Foreign Office has thus far declined to affirm that copper shipments consigned to Italy will not be molested on the high seas. Seizures are so numerous and delays so prolonged that exporters are afraid to send their copper to Italy, steamship lines decline to accept it, and insurers refuse to issue policies upon it. In a word, a legitimate trade is being greatly impaired through uncertainty as to the treatment which it may expect at the hands of the British authorities.

We feel that we are abundantly justified in asking for information as to the manner in which the British Government propose to carry out the policy which they have adopted, in order that we may determine the steps necessary to protect our citizens, engaged in foreign trade, in their rights and from the serious losses to which they are liable through ignorance of the hazards to which their cargoes are exposed.

In the case of conditional contraband the policy of Great Britain appears to this Government to be equally unjustified by the established rules of international conduct. As evidence of this, attention is directed to the fact that a number of the American cargoes which have been seized consist of foodstuffs and other articles of common use in all countries which are admittedly relative contraband. In spite of the presumption of innocent use because destined to neutral territory, the British authorities made these seizures and detentions without, so far as we are informed, being in possession of facts which warranted a reasonable belief that the shipments had in reality a belligerent destination, as that term is used in international law. Mere suspicion is not evidence and doubts should be resolved in favor of neutral commerce, not against it. The effect upon trade in these articles between neutral nations resulting from interrupted voyages and detained cargoes is not entirely cured by reimbursement of the owners for the damages which they have suffered, after investigation has failed to establish an enemy destination. The injury is to American commerce with neutral countries as a whole through the hazard of the enterprise and the repeated diversion of goods from established markets.

It also appears that cargoes of this character have been seized by the British authorities because of a belief that, though not originally so intended by the shippers, they will ultimately reach the territory of the enemies of Great Britain. Yet this belief is frequently reduced to a mere fear in view of the embargoes which have been decreed by the neutral countries, to which they are destined, on the articles composing the cargoes.

That a consignment "to order" of articles listed as conditional contraband and shipped to a neutral port raises a legal presumption of enemy destination appears to be

directly contrary to the doctrines previously held by Great Britain and thus stated by Lord Salisbury during the South African War:

Foodstuffs, though having a hostile destination, can be considered as contraband of war only if they are for the enemy's forces; it is not sufficient that they are capable of being so used, it must be shown that this was in fact their destination at the time of their seizure.

With this statement as to conditional contraband the views of this Government are in entire accord, and upon this historic doctrine, consistently maintained by Great Britain when a belligerent as well as a neutral, American shippers were entitled to rely.

The Government of the United States readily admits the full right of a belligerent to visit and search on the high seas the vessels of American citizens or other neutral vessels carrying American goods and to detain them *when there is sufficient evidence to justify a belief that contraband articles are in their cargoes*; but His Majesty's Government, judging by their own experience in the past, must realize that this Government can not without protest permit American ships or American cargoes to be taken into British ports and there detained for the purpose of searching generally for evidence of contraband, or upon presumptions created by special municipal enactments which are clearly at variance with international law and practice.

This Government believes, and earnestly hopes His Majesty's Government will come to the same belief, that a course of conduct more in conformity with the rules of international usage, which Great Britain has strongly sanctioned for many years, will in the end better serve the interests of belligerents as well as those of neutrals.

Not only is the situation a critical one to the commercial interests of the United States, but many of the great industries of this country are suffering because their products are denied long-established markets in European countries, which, though neutral, are contiguous to the nations at war. Producers and exporters, steamship and insurance companies are pressing, and not without reason, for relief from the menace to trans-Atlantic trade which is gradually but surely destroying their business and threatening them with financial disaster.

The Government of the United States, still relying upon the deep sense of justice of the British Nation, which has been so often manifested in the intercourse between the two countries during so many years of uninterrupted friendship, expresses confidently the hope that His Majesty's Government will realize the obstacles and difficulties which their present policy has placed in the way of commerce between the United States and the neutral countries of Europe, and will instruct its officials to refrain from all unnecessary interference with the freedom of trade between nations which are sufferers, though not participants, in the present conflict; and will in their treatment of neutral ships and cargoes conform more closely to those rules governing the maritime relations between belligerents and neutrals, which have received the sanction of the civilized world, and which Great Britain has, in other wars, so strongly and successfully advocated.

In conclusion, it should be impressed upon His Majesty's Government that the present condition of American trade with the neutral European countries is such that, if it does not improve, it may arouse a feeling contrary to that which has so long existed between the American and British peoples. Already it is becoming more and more the subject of public criticism and complaint. There is an increasing belief, doubtless not entirely unjustified, that the present British policy toward American trade is responsible for the depression in certain industries which depend upon European markets. The attention of the British Government is called to this possible result of their present policy to show how widespread the effect is upon the industrial life of the United States and to emphasize the importance of removing the cause of complaint.

BRYAN.

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

FOREIGN OFFICE, January 7, 1915.

YOUR EXCELLENCY: I have the honor to acknowledge receipt of your note of the 28th of December.

It is being carefully examined and the points raised in it are receiving consideration, as the result of which a reply shall be addressed to Your Excellency, dealing in detail with the issues raised and the points to which the United States Government have drawn attention. This consideration and the preparation of the reply will necessarily require some time, and I therefore desire to send without further delay some preliminary observations which will, I trust, help to clear the ground and remove some misconceptions that seem to exist.

Let me say at once that we entirely recognize the most friendly spirit referred to by

Your Excellency, and that we desire to reply in the same spirit and in the belief that, as Your Excellency states, frankness will best serve the continuance of cordial relations between the two countries.

His Majesty's Government cordially concur in the principle enunciated by the Government of the United States that a belligerent, in dealing with trade between neutrals, should not interfere unless such interference is necessary to protect the belligerent's national safety, and then only to the extent to which this is necessary. We shall endeavor to keep our action within the limits of this principle on the understanding that it admits our right to interfere when such interference is not with "bona fide" trade between the United States and another neutral country but with trade in contraband destined for the enemy's country, and we are ready, whenever our action may unintentionally exceed this principle, to make redress.

We think that much misconception exists as to the extent to which we have, in practice, interfered with trade. Your Excellency's note seems to hold His Majesty's Government responsible for the present condition of trade with neutral countries, and it is stated that, through the action of His Majesty's Government, the products of the great industries of the United States have been denied long established markets in European countries which, though neutral, are contiguous to the seat of war. Such a result is far from being the intention of His Majesty's Government, and they would exceedingly regret that it should be due to their action. I have been unable to obtain complete or conclusive figures showing what the state of trade with these neutral countries has been recently, and I can therefore only ask that some further consideration should be given to the question whether United States trade with these neutral countries has been so seriously affected. The only figures as to the total volume of trade that I have seen are those for the exports from New York, for the month of November, 1914, and they are as follows, compared with the month of November, 1913:

Exports from New York for November, 1913 [and] November, 1914, respectively.

Denmark	\$558,000	\$7,101,000
Sweden	377,000	2,858,000
Norway	477,000	2,318,000
Italy	2,971,000	4,781,000
Holland	4,389,000	3,960,000

It is true that there may have been a falling off in cotton exports, as to which New York figures would be no guide, but His Majesty's Government have been most careful not to interfere with cotton, and its place on the free list has been scrupulously maintained.

We do not wish to lay too much stress upon incomplete statistics; the figures above are not put forward as conclusive; and we are prepared to examine any further evidence with regard to the state of trade with these neutral countries which may point to a different conclusion, or show that it is the action of His Majesty's Government in particular, and not the existence of a state of war and consequent diminution of purchasing power and shrinkage of trade, which is responsible for adverse effects upon trade with the neutral countries.

That the existence of a state of war on such a scale has had a very adverse effect upon certain great industries, such as cotton, is obvious; but it is submitted that this is due to the general cause of diminished purchasing power of such countries as France, Germany, and the United Kingdom, rather than to interference with trade with neutral countries. In the matter of cotton, it may be recalled that the British Government gave special assistance through the Liverpool Cotton Exchange to the renewal of transactions in the cotton trade of not only the United Kingdom but of many neutral countries.

Your Excellency's note refers in particular to the detention of copper. The figures taken from official returns for the export of copper from the United States for Italy for the months during which the war has been in progress up to the end of the first three weeks of December are as follows:

Nineteen thirteen: Fifteen million two hundred two thousand pounds. Nineteen fourteen: Thirty-six million two hundred eight-five thousand pounds. Norway, Sweden, Denmark, and Switzerland are not shown separately for the whole period in the United States returns but are included in the heading "Other Europe" (that is, Europe other than the United Kingdom, Russia, France, Belgium, Austria, Germany, Holland, and Italy). The corresponding figures under this heading are as follows;

Nineteen thirteen: Seven million two hundred seventy-one thousand pounds. Nineteen fourteen: Thirty-five million three hundred forty-seven thousand pounds.

With such figures the presumption is very strong that the bulk of copper consigned to these countries has recently been intended, not for their own use, but for that of a belligerent who can not import it direct. It is therefore an imperative necessity for the safety of this country while it is at war that His Majesty's Government should do all in

their power to stop such part of this import of copper as is not genuinely destined for neutral countries.

Your Excellency does not quote any particular shipment of copper to Sweden, which has been detained. There are, however, four consignments to Sweden at the present time of copper and aluminium which, though definitely consigned to Sweden, are, according to positive evidence in the possession of His Majesty's Government, definitely destined for Germany.

I can not believe that, with such figures before them and in such cases as those just mentioned, the Government of the United States would question the propriety of the action of His Majesty's Government in taking suspected cargoes to a prize court, and we are convinced that it can not be in accord with the wish either of the Government or of the people of the United States to strain the international code in favor of private interests so as to prevent Great Britain from taking such legitimate means for this purpose as are in her power.

With regard to the seizure of foodstuffs to which Your Excellency refers, His Majesty's Government are prepared to admit that foodstuffs should not be detained and put into a prize court without presumption that they are intended for the armed forces of the enemy or the enemy government. We believe that this rule has been adhered to in practice, hitherto, but if the United States Government have instances to the contrary, we are prepared to examine them, and it is our present intention to adhere to the rule, though we can not give an unlimited and unconditional undertaking in view of the departure by those against whom we are fighting from hitherto accepted rules of civilization and humanity and the uncertainty as to the extent to which such rules may be violated by them in future.

From the 4th of August last to the 3d of January the number of steamships proceeding from the United States for Holland, Denmark, Norway, Sweden, and Italy has been seven hundred and seventy-three. Of these there are forty-five which have had consignments or cargoes placed in the prize court while of the ships themselves only eight have been placed in the prize court and one of these has since been released. It is, however, essential under modern conditions that where there is real ground for suspecting the presence of contraband, the vessels should be brought into port for examination: in no other way can the right of search be exercised, and but for this practice it would have to be completely abandoned. Information was received by us that special instructions had been given to ship rubber from the United States under another designation to escape notice, and such cases have occurred in several instances. Only by search in a port can such cases, when suspected, be discovered and proved. The necessity for examination in a port may also be illustrated by a hypothetical instance, connected with cotton, which has not yet occurred. Cotton is not specifically mentioned in Your Excellency's note, but I have seen public statements made in the United States that the attitude of His Majesty's Government with regard to cotton has been ambiguous, and thereby responsible for depression in the cotton trade. There has never been any foundation for this allegation. His Majesty's Government have never put cotton on the list of contraband; they have throughout the war kept it on the free list; and, on every occasion when questioned on the point, they have stated their intention of adhering to this practice. But information has reached us that precisely because we have declared our intention of not interfering with cotton, ships carrying cotton will be specially selected to carry concealed contraband; and we have been warned that copper will be concealed in bales of cotton. Whatever suspicions we have entertained, we have not so far made these a ground for detaining any ship carrying cotton, but, should we have information giving us real reason to believe in the case of a particular ship that the bales of cotton concealed copper or other contraband, the only way to prove our case would be to examine and weigh the bales; a process that could be carried out only by bringing the vessel into a port. In such a case, or if examination justified the action of His Majesty's Government, the case shall be brought before a prize court and dealt with in the ordinary way.

That the decisions of British prize courts hitherto have not been unfavorable to neutrals is evidenced by the decision in the *Miramichi* case. This case, which was decided against the Crown, laid down that the American shipper was to be paid even when he had sold a cargo c. i. f. and when the risk of loss after the cargo had been shipped did not apply to him at all.

It has further been represented to His Majesty's Government, though this subject is not dealt with in Your Excellency's note, that our embargoes on the export of some articles, more especially rubber, have interfered with commercial interests in the United States. It is, of course, difficult for His Majesty's Government to permit the export of rubber from British Dominions to the United States at a time when rubber is essential to belligerent countries for carrying on the war, and when a new trade in exporting rubber from the United States in suspiciously large quantities to neutral countries has

actually sprung up since the war. It would be impossible to permit the export of rubber from Great Britain unless the right of His Majesty's Government were admitted to submit to a prize court cargoes of rubber exported from the United States which they believe to be destined for an enemy country, and reasonable latitude of action for this purpose were conceded. But His Majesty's Government have now provisionally come to an arrangement with the rubber exporters in Great Britain which will permit of licenses being given under proper guaranties for the export of rubber to the United States.

We are confronted with the growing danger that neutral countries contiguous to the enemy will become on a scale hitherto unprecedented a base of supplies for the armed forces of our enemies and for materials for manufacturing armament. The trade figures of imports show how strong this tendency is, but we have no complaint to make of the attitude of the Governments of those countries, which so far as we are aware have not departed from proper rules of neutrality. We endeavor in the interest of our own national safety to prevent this danger by intercepting goods really destined for the enemy without interfering with those which are "bona fide" neutral.

Since the outbreak of the war the Government of the United States have changed their previous practice and have prohibited the publication of manifests till 30 days after the departure of vessels from the United States ports. We have no "locus standi" for complaining of this change, and did not complain. But the effect of it must be to increase the difficulty of ascertaining the presence of contraband and to render necessary in the interests of our national safety the examination and detention of more ships than would have been the case if the former practice had continued.

Pending a more detailed reply, I would conclude by saying that His Majesty's Government do not desire to contest the general principles of law, on which they understand the note of the United States to be based, and desire to restrict their action solely to interferences with contraband destined for the enemy. His Majesty's Government are prepared, whenever a cargo coming from the United States is detained, to explain the case on which such detention has taken place and would gladly enter into any arrangement by which mistakes can be avoided and reparation secured promptly when any injury to the neutral owners of a ship or cargo has been improperly caused, for they are most desirous in the interest both of the United States and of other neutral countries that British action should not interfere with the normal importation and use by the neutral countries of goods from the United States.

I have, etc.,

E. GREY.

Ambassador W. H. Page to the Secretary of State.
[Telegram.]

AMERICAN EMBASSY,
London, January 22, 1915.

British Government now informs me that the heading "Copper unwrought" was intended to include all copper in such form as to render it usable for manufacturing purposes. This description being vague, the former heading will be changed in new lists to read "Copper, unwrought and part wrought and copper wire." This is intended to include copper sheets, circles, slabs, bars, pipes, ingots, scrap, rods, plates, solid drawn, tubes, etc., and all grades of copper wire. The word copper is deemed to include alloys in which copper is the main ingredient.

PAGE.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, February 6, 1915.

SIR: I have the honor to transmit to you herewith two copies of the proclamation of the German Admiralty of February 4, 1915, declaring the waters surrounding Great Britain and Ireland to be comprised within the seat of war, as well as two copies each in German and French of the memorial of the Imperial Government on this subject and an English translation of the same.

I have, etc.,

JAMES W. GERARD.

[Inclosure 1—Translation.]

PROCLAMATION.

1. The waters surrounding Great Britain and Ireland including the whole English channel are hereby declared to be war zone. On and after the 18th of February, 1915,

every enemy merchant ship found in the said war zone will be destroyed without its being always possible to avert the dangers threatening the crews and passengers on that account.

2. Even neutral ships are exposed to danger in the war zone as in view of the misuse of neutral flags ordered on January 31 by the British Government and of the accidents of naval war, it can not always be avoided to strike even neutral ships in attacks that are directed at enemy ships.

3. Northward navigation around the Shetland Islands, in the eastern waters of the North Sea and in a strip of not less than 30 miles width along the Netherlands coast is in no danger.

VON POHL,
Chief of the Admiral Staff of the Navy,

BERLIN, February 4, 1915.

[Inclosure 2—Translation.]

MEMORIAL OF THE IMPERIAL GERMAN GOVERNMENT RESPECTING RETALIATORY MEASURES RENDERED NECESSARY BY THE MEANS EMPLOYED BY ENGLAND CONTRARY TO INTERNATIONAL LAW IN INTERCEPTING NEUTRAL MARITIME TRADE WITH GERMANY.

Since the commencement of the present war Great Britain's conduct of commercial warfare against Germany has been a mockery of all the principles of the law of nations. While the British Government have by several orders declared that their naval forces should be guided by the stipulations of the Declaration of London, they have in reality repudiated this Declaration in the most essential points, notwithstanding the fact that their own delegates at the Maritime Conference of London acknowledged its acts as forming part of existing international law. The British Government have placed a number of articles on the contraband list which are not at all, or only very indirectly capable of use in warfare, and consequently can not be treated as contraband either under the Declaration of London or under the generally acknowledged rules of international law. In addition, they have in fact obliterated the distinction between absolute and conditional contraband by confiscating all articles of conditional contraband destined for Germany, whatever may be the port where these articles are to be unloaded, and without regard to whether they are destined for uses of war or peace. They have not even hesitated to violate the Declaration of Paris, since their naval forces have captured on neutral ships German property which was not contraband of war. Furthermore, they have gone further than their own orders respecting the Declaration of London and caused numerous German subjects capable of bearing arms to be taken from neutral ships and made prisoners of war. Finally, they have declared the North Sea in its whole extent to be the seat of war, thereby rendering difficult and extremely dangerous, if not impossible, all navigation on the high seas between Scotland and Norway, so that they have in a way established a blockade of neutral coasts and ports, which is contrary to the elementary principles of generally accepted international law. Clearly all these measures are part of a plan to strike not only the German military operations, but also the economic system of Germany, and in the end to deliver the whole German people to reduction by famine, by intercepting legitimate neutral commerce by methods contrary to international law.

The neutral powers have in the main acquiesced in the measures of the British Government; in particular they have not been successful in securing the release by the British Government of the German subjects and German merchandise illegally taken from their vessels. To a certain extent they have even contributed toward the execution of the measures adopted by England in defiance of the principle of the freedom of the seas by prohibiting the export and transit of goods destined for peaceable purposes in Germany, thus evidently yielding to pressure by England. The German Government have in vain called the attention of the neutral powers to the fact that Germany must seriously question whether it can any longer adhere to the stipulations of the Declaration of London, hitherto strictly observed by it, in case England continues to adhere to its practice, and the neutral powers persist in looking with indulgence upon all these violations of neutrality to the detriment of Germany. Great Britain invokes the vital interest of the British Empire which are at stake in justification of its violations of the law of nations, and the neutral powers appear to be satisfied with theoretical protests, thus actually admitting the vital interests of a belligerent as a sufficient excuse for methods of waging war of whatever description.

The time has come for Germany also to invoke such vital interests. It therefore finds itself under the necessity, to its regret, of taking military measures against England in retaliation of the practice followed by England. Just as England declared the whole North Sea between Scotland and Norway to be comprised within the seat of war,

so does Germany now declare the waters surrounding Great Britain and Ireland, including the whole English Channel to be comprised within the seat of war, and will prevent by all the military means at its disposal all navigation by the enemy in those waters. To this end it will endeavor to destroy, after February 18 next, any merchant vessels of the enemy which present themselves at the seat of war above indicated, although it may not always be possible to avert the dangers which may menace persons and merchandise. Neutral powers are accordingly forewarned not to continue to entrust their crews, passengers, or merchandise to such vessels. Their attention is furthermore called to the fact that it is of urgency to recommend to their own vessels to steer clear of these waters. It is true that the German Navy has received instructions to abstain from all violence against neutral vessels recognizable as such; but in view of the hazards of war, and of the misuse of the neutral flag ordered by the British Government, it will not always be possible to prevent a neutral vessel from becoming the victim of an attack intended to be directed against a vessel of the enemy. It is expressly declared that navigation in the waters north of the Shetland Islands is outside the danger zone, as well as navigation in the eastern part of the North Sea and in a zone thirty marine miles wide along the Dutch coast.

The German Government announces this measure at a time permitting enemy and neutral ships to make the necessary arrangements to reach the ports situated at the seat of war. They hope that the neutral powers will accord consideration to the vital interests of Germany equally with those of England, and will on their part assist in keeping their subjects and their goods far from the seat of war; the more so since they likewise have a great interest in seeing the termination at an early day of the war now ravaging.

BERLIN, February 4, 1915.

The Secretary of State to Ambassador Gerard.
[Telegram.]

DEPARTMENT OF STATE,
Washington, February 10, 1915.

Please address a note immediately to the Imperial German Government to the following effect.

The Government of the United States, having had its attention directed to the proclamation of the German Admiralty issued on the fourth of February, that the waters surrounding Great Britain and Ireland, including the whole of the English Channel, are to be considered as comprised within the seat of war; that all enemy merchant vessels found in those waters after the eighteenth instant will be destroyed, although it may not always be possible to save crews and passengers; and that neutral vessels expose themselves to danger within this zone of war because, in view of the misuse of neutral flags said to have been ordered by the British Government on the thirty-first of January and of the contingencies of maritime warfare, it may not be possible always to exempt neutral vessels from attacks intended to strike enemy ships, feels it to be its duty to call the attention of the Imperial German Government, with sincere respect and the most friendly sentiments but very candidly and earnestly, to the very serious possibilities of the course of action apparently contemplated under that proclamation.

The Government of the United States views those possibilities with such grave concern that it feels it to be its privilege, and indeed its duty in the circumstances, to request the Imperial German Government to consider before action is taken the critical situation in respect of the relations between this country and Germany which might arise were the German naval forces, in carrying out the policy foreshadowed in the Admiralty's proclamation, to destroy any merchant vessel of the United States or cause the death of American citizens.

It is of course not necessary to remind the German Government that the sole right of a belligerent in dealing with neutral vessels on the high seas is limited to visit and search, unless a blockade is proclaimed and effectively maintained, which this Government does not understand to be proposed in this case. To declare or exercise a right to attack and destroy any vessel entering a prescribed area of the high seas without first certainly determining its belligerent nationality and the contraband character of its cargo would be an act so unprecedented in naval warfare that this Government is reluctant to believe that the Imperial Government of Germany in this case contemplates it as possible. The suspicion that enemy ships are using neutral flags improperly can create no just presumption that all ships traversing a prescribed area are subject to the same suspicion. It is to determine exactly such questions that this Government understands the right of visit and search to have been recognized.

This Government has carefully noted the explanatory statement issued by the Im-

perial German Government at the same time with the proclamation of the German Admiralty, and takes this occasion to remind the Imperial German Government very respectfully that the Government of the United States is open to none of the criticisms for unneutral action to which the German Government believe the governments of certain of other neutral nations have laid themselves open; that the Government of the United States has not consented to or acquiesced in any measures which may have been taken by the other belligerent nations in the present war which operate to restrain neutral trade, but has, on the contrary, taken in all such matters a position which warrants it in holding those governments responsible in the proper way for any untoward effects upon American shipping which the accepted principles of international law do not justify; and that it, therefore, regards itself as free in the present instance to take with a clear conscience and upon accepted principles the position indicated in this note.

If the commanders of German vessels of war should act upon the presumption that the flag of the United States was not being used in good faith and should destroy on the high seas an American vessel or the lives of American citizens, it would be difficult for the Government of the United States to view the act in any other light than as an indefensible violation of neutral rights which it would be very hard indeed to reconcile with the friendly relations now so happily subsisting between the two Governments.

If such a deplorable situation should arise, the Imperial German Government can readily appreciate that the Government of the United States would be constrained to hold the Imperial German Government to a strict accountability for such acts of their naval authorities and to take any steps it might be necessary to take to safeguard American lives and property and to secure to American citizens the full enjoyment of their acknowledged rights on the high seas.

The Government of the United States, in view of these considerations, which it urges with the greatest respect and with the sincere purpose of making sure that no misunderstanding may arise and no circumstance occur that might even cloud the intercourse of the two Governments, expresses the confident hope and expectation that the Imperial German Government can and will give assurance that American citizens and their vessels will not be molested by the naval forces of Germany otherwise than by visit and search, though their vessels may be traversing the sea area delimited in the proclamation of the German Admiralty.

It is added for the information of the Imperial Government that representations have been made to His Britannic Majesty's Government in respect to the unwarranted use of the American flag for the protection of British ships.

BRYAN.

The Secretary of State to Ambassador W. H. Page.
[Telegram.]

DEPARTMENT OF STATE,
Washington, February 10, 1915.

The department has been advised of the Declaration of the German Admiralty on February fourth, indicating that the British Government had on January thirty-first explicitly authorized the use of neutral flags on British merchant vessels presumably for the purpose of avoiding recognition by German naval forces. The department's attention has also been directed to reports in the press that the captain of the *Lusitania*, acting upon orders or information received from the British authorities, raised the American flag as his vessel approached the British coasts, in order to escape anticipated attacks by German submarines. To-day's press reports also contain an alleged official statement of the Foreign Office defending the use of the flag of a neutral country by a belligerent vessel in order to escape capture or attack by an enemy.

Assuming that the foregoing reports are true, the Government of the United States, reserving for future consideration the legality and propriety of the deceptive use of the flag of a neutral power in any case for the purpose of avoiding capture, desires very respectfully to point out to His Britannic Majesty's Government the serious consequences which may result to American vessels and American citizens if this practice is continued.

The occasional use of the flag of a neutral or an enemy under the stress of immediate pursuit and to deceive an approaching enemy, which appears by the press reports to be represented as the precedent and justification used to support this action, seems to this Government a very different thing from an explicit sanction by a belligerent government for its merchant ships generally to fly the flag of a neutral power within certain portions of the high seas which are presumed to be frequented with hostile warships. The formal declaration of such a policy of general misuse of a neutral's flag jeopardizes the vessels of the neutral visiting those waters in a peculiar degree by rais-

ing the presumption that they are of belligerent nationality regardless of the flag which they may carry.

In view of the announced purpose of the German Admiralty to engage in active naval operations in certain delimited sea areas adjacent to the coasts of Great Britain and Ireland, the Government of the United States would view with anxious solicitude any general use of the flag of the United States by British vessels traversing those waters. A policy such as the one which His Majesty's Government is said to intend to adopt would, if the declaration of the German Admiralty is put in force, it seems clear, afford no protection to British vessels, while it would be a serious and constant menace to the lives and vessels of American citizens.

The Government of the United States, therefore, trusts that His Majesty's Government will do all in their power to restrain vessels of British nationality from the deceptive use of the flag of the United States in the sea area defined in the German declaration, since such practice would greatly endanger the vessels of a friendly power navigating those waters and would even seem to impose upon the Government of Great Britain a measure of responsibility for the loss of American lives and vessels in case of an attack by a German naval force.

Please present a note to Sir Edward Grey in the sense of the foregoing and impress him with the grave concern which this Government feels in the circumstances in regard to the safety of American vessels and lives in the war zone declared by the German Admiralty.

You may add that this Government is making earnest representations to the German Government in regard to the danger to American vessels and citizens if the declaration of the German Admiralty is put into effect.

BRYAN.

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

FOREIGN OFFICE, *February, 10, 1915.*

YOUR EXCELLENCY: Your Excellency has already received the preliminary answer, which I handed to you on the 7th January, in reply to your note of the 28th December on the subject of the seizures and detentions of American cargoes destined for neutral European ports.

Since that date I have had further opportunity of examining into the trade statistics of the United States as embodied in the customs returns, in order to see whether the belligerent action of Great Britain has been in any way the cause of the trade depression which Your Excellency describes as existing in the United States, and also whether the seizures of vessels or cargoes which have been made by the British Navy have inflicted any loss on American owners for which our existing machinery provides no means of redress. In setting out the results of my investigation I think it well to take the opportunity of giving a general review of the methods employed by His Majesty's Government to intercept contraband trade with the enemy, of their consistency with the admitted right of a belligerent to intercept such trade, and also of the extent to which they have endeavored to meet the representations and complaints from time to time addressed to them on behalf of the United States Government.

Toward the close of your note of the 28th December Your Excellency describes the situation produced by the action of Great Britain as a pitiful one to the commercial interests of the United States, and said that many of the great industries of the country were suffering because their products were denied long-established markets in neutral European countries contiguous to the nations at war.

It is unfortunately true that in these days, when trade and finance are cosmopolitan, any war—particularly a war of any magnitude—must result in a grievous dislocation of commerce, including that of the nations which take no part in the war. Your Excellency will realize that in this tremendous struggle for the outbreak of which Great Britain is in no way responsible, it is impossible for the trade of any country to escape all injury and loss, but for such His Majesty's Government are not to blame.

I do not understand the paragraph which I have quoted from Your Excellency's note as referring to these indirect consequences of the state of war, but to the more proximate and direct effect of our belligerent action in dealing with neutral ships and cargoes on the high seas. Such action has been limited to vessels on their way to enemy ports or ports in neutral countries adjacent to the theater of war, because it is only through such ports that the enemy introduces the supplies which he requires for carrying on the war.

In my earlier note I set out the number of ships which had sailed from the United States for Holland, Denmark, Norway, Sweden, and Italy, and I there stated that only 8 of the 773 had been placed in the prize court, and that only 45 had been temporarily detained to enable particular consignments of cargo to be discharged for the purpose of

prize-court proceedings. To measure the effect of such naval action it is necessary to take into consideration the general statistics of the export trade of the United States during the months preceding the outbreak of war and those since the outbreak.

Taking the figures in millions of dollars, the exports of merchandise from the United States for the seven months of January to July, 1914, inclusive, were 1,201, as compared with 1,327 in the corresponding months of 1913, a drop of 126 millions of dollars.

For the months of August, September, October, and November, that is to say, for the four months of the war preceding the delivery of your Excellency's note, the figures of the exports of merchandise were (again in millions of dollars) 667 as compared with 923 in the corresponding months of 1913, a drop of 256 millions of dollars.

If, however, the single article of cotton be eliminated from the comparison, the figures show a very different result. Thus the exports of all articles of merchandise other than cotton from the United States during the first seven months of 1914 were 966 millions of dollars, as against 1,127 millions in 1913, a drop of 161 millions of dollars, or 14½ per cent. On the other hand, the exports of the same articles during the months August to November amounted to 608 millions of dollars as compared with 630 millions in 1913, a drop of only 22 millions, or less than 4 per cent.

It is therefore clear that, if cotton be excluded, the effect of the war has been not to increase but practically to arrest the decline of American exports which was in progress earlier in the year. In fact, any decrease in American exports which is attributable to the war is essentially due to cotton. Cotton is an article which can not possibly have been affected by the exercise of our belligerent rights, for, as Your Excellency is aware, it has not been declared by His Majesty's Government to be contraband of war, and the rules under which we are at present conducting our belligerent operations give us no power in the absence of a blockade to seize or interfere with it when on its way to a belligerent country in neutral ships. Consequently no cotton has been touched.

Into the causes of the decrease in the exports of cotton I do not feel that there is any need for me to enter, because, whatever may have been the cause, it is not to be found in the exercise of the belligerent rights of visit, search, and capture, or in our general right when at war to intercept the contraband trade of our enemy. Imports of cotton to the United Kingdom fell as heavily as those to other countries. No place felt the outbreak of war more acutely than the cotton districts of Lancashire, where for a time an immense number of spindles were idle. Though this condition has now to a large extent passed away, the consumption of the raw material in Great Britain was temporarily much diminished. The same is no doubt true of France.

The general result is to show convincingly that the naval operations of Great Britain are not the cause of any diminution in the volume of American exports, and that if the commerce of the United States is in the unfavourable condition which your Excellency describes, the cause ought in fairness to be sought elsewhere than in the activities of His Majesty's naval forces.

I may add that the circular issued by the Department of Commerce at Washington on the 23rd January admits a marked improvement in the foreign trade of the United States, which we have noted with great satisfaction. The first paragraph of the circular is worth quoting verbatim:

A marked improvement in our foreign trade is indicated by the latest reports issued by the Department of Commerce through its Bureau of Foreign and Domestic Commerce, sales of foodstuffs and certain lines of manufactures having been unusually large in November, the latest period for which detailed information is at hand. In that month exports aggregated 206,000,000 dollars, or double the total for August last, when, by reason of the outbreak of war, our foreign trade fell to the lowest level reached in many years. In December there was further improvement, the month's exports being valued at 246,000,000 dollars, compared with 233,000,000 in December, 1913, and within 4,000,000 of the high record established in December, 1912.

A better view of the situation is obtained by looking at the figures month by month. The exports of merchandise for the last five months have been (in millions of dollars):

August	110
September	156
October	194
November	205
December	246

The outbreak of war produced in the United States, as it did in all neutral countries, an acute but temporary disturbance of trade. Since that time there seems to have been a steady recovery, for to-day the exports from the United States stand at a higher figure than on the same date last year.

Before passing away from the statistics of trade, and in order to demonstrate still more clearly if necessary that the naval operations of Great Britain and her allies have had no detrimental effect on the volume of trade between the United States and neutral countries, it is worth while to analyse the figures of the exports to Europe since the out-

break of hostilities. For this purpose the European countries ought to be grouped under three heads: Great Britain and those fighting with her, neutral countries, and enemy countries. It is, however, impossible for me to group the countries in this way satisfactorily, as the figures relating to the export trade of the United States with each country have not yet been published. In the preliminary statement of the export trade of the United States with foreign countries only principal countries are shown, and various countries which are tabulated separately in the more detailed monthly summary of commerce and finance are omitted. Those omitted include not only the Scandinavian countries, the exports to which are of peculiar importance in dealing with this question, but also Austria.

So far as it is possible to distribute the figures under the headings which I have indicated above (all the figures being given in thousands of dollars) the results are as follows:

Total exports to Europe from the 1st August to the 30th November, 413,995, as against 597,342 in 1913. Of these, Great Britain and her allies took 288,312, as against 316,805 in 1913. Germany and Belgium took 1,881 as against 177,136 in 1913; whereas neutral countries (among which Austria-Hungary is unavoidably included) took 123,802, as against 103,401 in 1913.

The general complaint in Your Excellency's note was that the action of Great Britain was affecting adversely the trade of the United States with neutral countries. The naval operations of Great Britain certainly do not interfere with commerce from the United States on its way to the United Kingdom and the allied countries, and yet the exports to Great Britain and her allies during those four months diminished to the extent of over 28,000,000 dollars, whereas those to neutral countries and Austria increased by over 20,000,000 dollars.

The inference may fairly be drawn from these figures, all of which are taken from the official returns published by the United States Government, that not only has the trade of the United States with the neutral countries in Europe been maintained as compared with previous years, but also that a substantial part of this trade was, in fact, trade intended for the enemy countries going through neutral ports by routes to which it was previously unaccustomed.

One of the many inconveniences to which this great war is exposing the commerce of all neutral countries is undoubtedly the serious shortage in shipping available for ocean transport, and the consequential result of excessive freights.

It cannot fairly be said that this shortage is caused by Great Britain's interference with neutral ships. At the present time there are only seven neutral vessels awaiting adjudication in the prize courts in this country, and three in those in the British dominions. As Your Excellency is aware, I have already instructed our ambassador at Washington to remind the parties who are interested in these vessels that it is open to them to apply to the court for the release of these ships on bail, and if an application of this sort is made by them it is not likely to be opposed by the Crown. There is therefore no reason why such an application should not be favourably entertained by the court, and, if acceded to, all these vessels will again be available for the carriage of commerce. Only one neutral vessel is now detained in this country in addition to those awaiting adjudication in the prize court.

Every effort has been made in cases in which it has been found necessary to institute proceedings against portions of the cargo to secure the speedy discharge of the cargo and the release of the ship, so as to enable it to resume work. Great Britain is suffering from the shortage of shipping and the rise in freights as acutely as, if not more than, other nations and His Majesty's Government have taken every step that they could consistently with their belligerent interests to increase the tonnage available for the transport of sea-borne commerce. The enemy ships which have been condemned in the prize courts in this country are being sold as rapidly as possible in order that they may become available for use; and those which have been condemned in the prize courts oversea are being brought to this country in order that they may be disposed of here, and again placed in active employment.

The difficulties have been accentuated by the unforeseen consequences of the convention which was signed at The Hague in 1907 relative to the status of enemy merchant vessels at the outbreak of war. This convention was a well-intentioned effort to diminish the losses which war must impose upon innocent persons, and provided that enemy merchant ships seized by a belligerent in whose ports they lay at the outbreak of war should not be condemned, but should merely be detained for the period of the war, unless they were liberated in the days of grace. We could come to no arrangement with the German Government for the reciprocal grant of days of grace, and the German merchant vessels lying in British ports when the war broke out have therefore been sentenced to detention in lieu of condemnation. The normal result would have been still further to

reduce the volume of shipping available for the commerce of the world. To ease the situation, however, His Majesty's Government are resorting to the power of requisitioning which is given by the convention, so that these ships may again be placed in active service.

Your excellency will see therefore that His Majesty's Government are doing all in their power to increase the volume of shipping available. I hope it will be realized that the detention of neutral ships by His Majesty's Government with a view to the capture of contraband trade on its way to the enemy has not contributed nearly so much to the shortage of shipping as has the destruction of neutral vessels by submarine mines indiscriminately laid by the enemy on the high seas, many miles from the coast, in the track of merchant vessels. Up till now 25 neutral vessels have been reported as destroyed by mines on the high seas; quite apart from all questions of the breach of treaties and the destruction of life, there is far more reason for protest on the score of belligerent interference with innocent neutral trade through the mines scattered by the enemy than through the British exercise of the right of seizing contraband.

I trust that what I have said above will be sufficient to convince your Excellency's Government that the complaints that the naval policy of Great Britain has interfered with the shipments of American products to long-established markets in neutral European countries is founded on a misconception.

In justice to the peoples of both countries, I feel that this opportunity should be taken to explain the lines on which His Majesty's Government have been acting hitherto, so as to show that the line they have followed is in no way inconsistent with the general fundamental principle of international law and to indicate the care with which they have endeavored to meet the representations which have been made by the United States Government from time to time during the war on these questions.

No one in these days will dispute the general proposition that a belligerent is entitled to capture contraband goods on their way to the enemy; that right has now become consecrated by long usage and general acquiescence. Though the right is ancient, the means of exercising it alter and develop with the changes in the methods and machinery of commerce. A century ago the difficulties of land transport rendered it impracticable for the belligerent to obtain supplies of sea-borne goods through a neighboring neutral country. Consequently the belligerent actions of his opponents neither required nor justified any interference with shipments on their way to a neutral port. This principle was recognized and acted on in the decisions in which Lord Stowell laid down the lines on which captures of such goods should be dealt with.

The advent of steam power has rendered it as easy for a belligerent to supply himself through the ports of a neutral contiguous country as through his own and has therefore rendered it impossible for his opponent to refrain from interfering with commerce intended for the enemy merely because it is on its way to a neutral port.

No better instance of the necessity of countering new devices for despatching contraband goods to an enemy by new methods of applying the fundamental principle of the right to capture such contraband can be given than the steps which the Government of the United States found it necessary to take during the American Civil War. It was at that time that the doctrine of continuous voyage was first applied to the capture of contraband, that is to say, it was then for the first time that a belligerent found himself obliged to capture contraband goods on their way to the enemy, even though at the time of capture they were en route for a neutral port from which they were intended subsequently to continue their journey. The policy then followed by the United States Government was not inconsistent with the general principles already sanctioned by international law, and met with no protest from His Majesty's Government, though it was upon British cargoes and upon British ships that the losses and the inconvenience due to this new development of the application of the old rule of international law principally fell. The criticisms which have been directed against the steps then taken by the United States came, and come, from those who saw in the methods employed in Napoleonic times for the prevention of contraband a limitation upon the right itself, and failed to see that in Napoleonic times goods on their way to a neutral port were immune from capture, not because the immediate destination conferred a privilege, but because capture under such circumstances was unnecessary.

The facilities which the introduction of steamers and railways have given to a belligerent to introduce contraband goods through neutral ports have imposed upon his opponent the additional difficulty, when endeavoring to intercept such trade, of distinguishing between the goods which are really destined for the commerce of that neutral country and the goods which are on their way to the enemy. It is one of the many difficulties with which the United States Government found themselves confronted in the days of the Civil War, and I cannot do better than quote the words which Mr. Seward, who was then Secretary of State, used in the course of the diplomatic discussion arising

out of the capture of some goods on their way to Matamoros which were believed to be for the insurgents:

Neutrals engaged in honest trade with Matamoros must expect to experience inconvenience from the existing blockade of Brownsville and the adjacent coast of Texas. While this Government unfeignedly regrets this inconvenience, it cannot relinquish any of its belligerent rights to favour contraband trade with insurgent territory. By insisting upon those rights, however, it is sure that that necessity for their exercise at all, which must be deplored by every friendly commercial Power, will the more speedily be terminated.

The opportunities now enjoyed by a belligerent for obtaining supplies through neutral ports are far greater than they were fifty years ago, and the geographical conditions of the present struggle lend additional assistance to the enemy in carrying out such importation. We are faced with the problem of intercepting such supplies when arranged with all the advantages that flow from elaborate organisation and unstinted expenditure. If our belligerent rights are to be maintained, it is of the first importance for us to distinguish between what is really bona fide trade intended for the neutral country concerned and the trade intended for the enemy country. Every effort is made by organizers of this trade to conceal the true destination, and if the innocent neutral trade is to be distinguished from the enemy trade it is essential that His Majesty's Government should be entitled to make, and should make, careful enquiry with regard to the destination of particular shipments of goods even at the risk of some slight delay to the parties interested. If such enquiries were not made, either the exercise of our belligerent rights would have to be abandoned, tending to the prolongation of this war and the increase of the loss and suffering which it is entailing upon the whole world, or else it would be necessary to indulge in indiscriminate captures of neutral goods and their detention throughout all the period of the resulting prize court proceedings. Under the system now adopted it has been found possible to release without delay, and consequently without appreciable loss to the parties interested, all the goods of which the destination is shown as the result of the enquiries to be innocent.

It may well be that the system of making such enquiries is to a certain extent a new introduction, in that it has been practised to a far greater extent than in previous wars; but if it is correctly described as a new departure, it is a departure which is wholly to the advantage of neutrals, and which has been made for the purpose of relieving them so far as possible from loss and inconvenience.

There was a passage in a note which the State Department addressed to the British ambassador at Washington on the 7th November to which I think it may be well to refer:

In the opinion of this Government, the belligerent right of visit and search requires that the search should be made on the high seas at the time of the visit, and that the conclusion of the search should rest upon the evidence found on the ship under investigation, and not upon circumstances ascertained from external sources.

The principle here enunciated appears to me to be inconsistent with the practice in these matters of the United States Government, as well as of the British Government. It certainly was not the rule upon which the United States Government acted either during the Civil War or during the Spanish-American War, nor has it ever been the practice of the British Government, nor so far as I am aware, of any other Government which has had to carry on a great naval war; as a principle I think it is impossible in modern times. The necessity for giving the belligerent captor full liberty to establish by all the evidence at his disposal the enemy destination with which the goods were shipped was recognized in all the leading decisions in the prize courts of the United States during the Civil War.

No clearer instance could be given than the reporter's statement of the case of the *Bermuda* (3 Wallace, 514):

The final destination of the cargo in this particular voyage was left so skilfully open * * * that it was not quite easy to prove, with that certainty which American courts require, the intention, which it seemed plain must have really existed. Thus to prove it required that truth should be collated from a variety of sources, darkened and disguised; from others opened as the cause advanced, and by accident only; from coincidences undesigned, and facts that were circumstantial. Collocations and comparisons, in short, brought largely their collective force in aid of evidence that was more direct.

It is not impossible that the course of the present struggle will show the necessity for belligerent action to be taken in various ways which may at first sight be regarded as a departure from old practice. In my note of the 7th January, I dealt at some length with the question of necessity of taking vessels into port for the purpose of carrying out an effective search, where search was necessary; to that subject I feel that I need not again recur.

The growth in the size of steamships necessitates in many cases that the vessels should go into calm water, in order that even the right of visit, as apart from the right of search, should be exercised. In modern times a steamer is capable of pursuing her voyage irrespective of the conditions of the weather. Many of the neutral merchantmen which our naval officers are called upon to visit at sea are encountered by our cruisers in

places and under conditions which render the launching of a boat impossible. The conditions during winter in the North Atlantic frequently render it impracticable for days together for a naval officer to board a vessel on her way to Scandinavian countries. If a belligerent is to be denied the right of taking a neutral merchantman, met with under such conditions, into calm water in order that the visiting officer may go aboard, the right of visit and of search would become a nullity.

The present conflict is not the first in which this necessity has arisen. As long ago as the Civil War the United States found it necessary to take vessels to United States ports in order to determine whether the circumstances justified their detention.

The same need arose during the Russo-Japanese War and also during the second Balkan War, when it sometimes happened that British vessels were made to deviate from their course and follow the cruisers to some spot where the right of visit and of search could be more conveniently carried out. In both cases this exercise of belligerent rights, although questioned at first by His Majesty's Government, was ultimately acquiesced in.

No Power in these days can afford during a great war to forego the exercise of the right of visit and search. Vessels which are apparently harmless merchantmen can be used for carrying and laying mines and even fitted to discharge torpedoes. Supplies for submarines can without difficulty be concealed under other cargo. The only protection against these risks is to visit and search thoroughly every vessel appearing in the zone of operations, and if the circumstances are such as to render it impossible to carry it out at the spot where the vessel was met with the only practicable course is to take the ship to some more convenient locality for the purpose. To do so is not to be looked upon as a new belligerent right, but as an adaptation of the existing right to the modern conditions of commerce. Like all belligerent rights, it must be exercised with due regard for neutral interests, and it would be unreasonable to expect a neutral vessel to make long deviations from her course for this purpose. It is for this reason that we have done all we can to encourage neutral merchantmen on their way to ports contiguous to the enemy country to visit some British port lying on their line of route in order that the necessary examination of the ship's papers, and, if required, of the cargo, can be made under conditions of convenience to the ship herself. The alternative would be to keep a vessel which the naval officers desired to board waiting, it might be for days together, until the weather conditions enabled the visit to be carried out at sea.

No war has yet been waged in which neutral individuals have not occasionally suffered from unjustified belligerent action; no neutral nation has experienced this fact more frequently in the past than Great Britain. The only method by which it is possible to harmonise belligerent action with the rights of neutrals is for the belligerent nation to provide some adequate machinery by which in any such case the facts can be investigated and appropriate redress can be obtained by the neutral individual. In this country such machinery is provided by the powers which are given to the prize court to deal not only with captures, but also with claims for compensation. Order V, rule 2, of the British prize court rules, provides that where a ship has been captured as prize, but has been subsequently released by the captors, or has by loss, destruction, or otherwise ceased to be detained by them, without proceedings for condemnation having been taken, any person interested in the ship (which by Order I, rule 2, includes goods) wishing to make a claim for costs and damages in respect thereof, shall issue a writ as provided by Order II. A writ so issued will initiate a proceeding, which will follow its ordinary course in the prize court.

This rule gives the prize court ample jurisdiction to deal with any claim for compensation by a neutral arising from the interference with a ship or goods by our naval forces. The best evidence that can be given of the discrimination and the moderation with which our naval officers have carried out their duties is to be found in the fact that up to this time no proceedings for the recovery of compensation have been initiated under the rule which I have quoted.

It is the common experience of every war that neutrals whose attempts to engage in suspicious trading are frustrated by a belligerent are wont to have recourse to their Government to urge that diplomatic remonstrances should be made on their behalf, and that redress should be obtained for them in this way. When an effective mode of redress is open to them in the courts of a civilized country by which they can obtain adequate satisfaction for any invasion of their rights which is contrary to the law of nations, the only course which is consistent with sound principle is that they should be referred to that mode of redress, and that no diplomatic action should be taken until their legal remedies have been exhausted, and they are in a position to show *prima facie* denial of justice.

The course adopted by His Majesty's Government during the American Civil War was in strict accordance with this principle. In spite of remonstrances from many

quarters, they placed full reliance on the American prize courts to grant redress to the parties interested in cases of alleged wrongful capture by American ships of war, and put forward no claims until the opportunities for redress in those courts had been exhausted. The same course was adopted in the Spanish-American War, when all British subjects who complained of captures or detentions of their ships were referred to the prize courts for relief.

Before leaving the subject may I remind Your Excellency of the fact that at your request you are now supplied immediately by this department with particulars of every ship under American colors which is detained, and of every shipment of cargo in which an American citizen appears to be the party interested. Not only is the fact of detention notified to Your Excellency, but so far as is practicable the grounds upon which the vessel or cargo has been detained are also communicated to you; a concession which enables any United States citizen to take steps at once to protect his interests.

His Majesty's Government have also done all that lies in their power to insure rapid action when ships are reported in British ports. They realize that the ship and cargo owners may reasonably expect an immediate decision to be taken as to whether the ship may be allowed to proceed, and whether her cargo or any part of it must be discharged and put into the prize court. Realizing that the ordinary methods of interdepartmental correspondence might cause delays which could be obviated by another method of procedure, they established several months ago a special committee, on which all the departments concerned are represented. This committee sits daily, and is provided with a special clerical staff. As soon as a ship reaches port full particulars are telegraphed to London, and the case is dealt with at the next meeting of the committee, immediate steps being taken to carry out the action decided upon. By the adoption of this procedure it has been found possible to reduce to a minimum the delays to which neutral shipping is exposed by the exercise of belligerent rights, and by the necessity, imposed by modern conditions, of examining with care the destination of contraband articles.

Particular attention is directed in Your Excellency's note to the policy we are pursuing with regard to conditional contraband, especially foodstuffs, and it is there stated that a number of American cargoes have been seized without, so far as Your Excellency's Government are informed, our being in possession of facts which warranted a reasonable belief that the shipments had in reality a belligerent destination, and in spite of the presumption of innocent use due to their being destined to neutral territory. The note does not specify any particular seizures as those which formed the basis of this complaint, and I am therefore not aware whether the passage refers to cargoes which were detained before or since the Order in Council of the 29th October was issued.

Your excellency will no doubt remember that soon after the outbreak of war an Order of His Majesty in Council was issued under which no distinction was drawn in the application of the doctrine of continuous voyage between absolute contraband and conditional contraband, and which also imposed upon the neutral owner of contraband somewhat drastic conditions as to the burden of proof of the guilt or innocence of the shipment.

The principle that the burden of proof should always be imposed upon the captor has usually been admitted as a theory. In practice, however, it has always been otherwise, and any student of the prize courts decisions of the past or even of modern wars will find that goods seldom escape condemnation unless their owner was in a position to prove that their destination was innocent. An attempt was made some few years ago, in the unratified Declaration of London, to formulate some definite rules upon this subject, but time alone can show whether the rules there laid down will stand the test of modern warfare.

The rules which His Majesty's Government published in the Order in Council of the 20th August, 1914, were criticised by the United States Government as contrary to the generally recognized principles of international law, and as inflicting unnecessary hardship upon neutral commerce, and Your Excellency will remember the prolonged discussion which took place between us through the month of October with a view to finding some new formulæ which should enable us to restrict supplies to the enemy forces, and to prevent the supply to the enemy of materials essential for the making of munitions of war, while inflicting the minimum of injury and interference with neutral commerce. It was with this object that the Order in Council of the 29th October was issued, under the provisions of which a far greater measure of immunity is conferred upon neutral commerce. In that Order the principle of noninterference with conditional contraband on its way to a neutral port is in large measure admitted; only in three cases is the right to seize maintained, and in all those cases the opportunity is given to the claimant of the goods to establish their innocence.

Two of those cases are where the ship's papers afford no information as to the person for whom the goods are intended. It is only reasonable that a belligerent should be

entitled to regard as suspicious cases where the shippers of the goods do not choose to disclose the name of the individual who is to receive them. The third case is that of goods addressed to a person in the enemy territory. In the peculiar circumstances of the present struggle, where the forces of the enemy comprise so large a proportion of the population, and where there is so little evidence of shipments on private as distinguished from Government account, it is most reasonable that the burden of proof should rest upon the claimant.

The most difficult questions in connection with conditional contraband arise with reference to the shipment of foodstuffs. No country has maintained more stoutly than Great Britain in modern times the principle that a belligerent should abstain from interference with the foodstuffs intended for the civil population. The circumstances of the present struggle are causing His Majesty's Government some anxiety as to whether the existing rules with regard to conditional contraband, framed as they were with the object of protecting so far as possible the supplies which were intended for the civil population, are effective for the purpose, or suitable to the conditions present. The principle which I have indicated above is one which His Majesty's Government have constantly had to uphold against the opposition of continental powers. In the absence of some certainty that the rule would be respected by both parties to this conflict, we feel great doubt whether it should be regarded as an established principle of international law.

Your Excellency will, no doubt, remember that in 1885, at the time when His Majesty's Government were discussing with the French Government this question of the right to declare foodstuffs not intended for the military forces to be contraband, and when public attention had been drawn to the matter, the Kiel Chamber of Commerce applied to the German Government for a statement of the latter's views on the subject. Prince Bismarck's answer was as follows:

In answer to their representation of the 1st instant, I reply to the Chamber of Commerce that any disadvantage our commercial and carrying interests may suffer by the treatment of rice as contraband of war does not justify our opposing a measure which it has been thought fit to take in carrying on a foreign war. Every war is a calamity, which entails evil consequences not only on the combatants, but also on neutrals. These evils may easily be increased by the interference of a neutral power with the way in which a third carries on the war, to the disadvantage of the subjects of the interfering power, and by this means German commerce might be weighted with far heavier losses than a transitory prohibition of the rice trade in Chinese waters. *The measure in question has for its object the shortening of the war by increasing the difficulties of the enemy, and is a justifiable step in war if impartially enforced against all neutral ships.*

His Majesty's Government are disposed to think that the same view is still maintained by the German Government.

Another circumstance which is now coming to light is that an elaborate machinery has been organized by the enemy for the supply of foodstuffs for the use of the German army from overseas. Under these circumstances it would be absurd to give any definite pledge that in cases where the supplies can be proved to be for the use of the enemy forces they should be given complete immunity by the simple expedient of dispatching them to an agent in a neutral port.

The reason for drawing a distinction between foodstuffs intended for the civil population and those for the armed forces or enemy Government disappears when the distinction between the civil population and the armed forces itself disappears.

In any country in which there exists such a tremendous organization for war as now obtains in Germany there is no clear division between those whom the Government is responsible for feeding and those whom it is not. Experience shows that the power to requisition will be used to the fullest extent in order to make sure that the wants of the military are supplied, and however much goods may be imported for civil use it is by the military that they will be consumed if military exigencies require it, especially now that the German Government have taken control of all the foodstuffs in the country.

I do not wish to overburden this note with statistics, but in proof of my statement as to the unprecedented extent to which supplies are reaching neutral ports I should like to instance the figures of the exports of certain meat products to Denmark during the months of September and October. Denmark is a country which in normal times imports a certain quantity of such products, but exports still more. In 1913, during the above two months, the United States exports of lard to Denmark were nil, as compared with 22,652,598 pounds in the same two months of 1914. The corresponding figures with regard to bacon were: 1913, nil; 1914, 1,022,195 pounds; canned beef, 1913, nil; 1914, 151,200 pounds; pickled and cured beef, 1913, 42,901 pounds; 1914, 156,143 pounds; pickled pork, 1913, nil; 1914, 812,872 pounds.

In the same two months the United States exported to Denmark 280,176 gallons of mineral lubricating oil in 1914 as compared with 179,252 in 1913; to Norway, 335,468

gallons in 1914, as against 151,179 gallons in 1913; to Sweden, 896,193 gallons in 1914, as against 385,476 gallons in 1913.

I have already mentioned the framing of the Order in Council of the 20th October, and the transmission to your Excellency of particulars of ships and cargoes seized as instances of the efforts which we have made throughout the course of this war to meet all reasonable complaints made on behalf of American citizens, and in my note of the 7th January I alluded to the decision of our prize court in the case of the *Miramichi*, as evidencing the liberal principles adopted toward neutral commerce.

I should also like to refer to the steps which we took at the beginning of the war to insure the speedy release of cargo claimed by neutrals on board enemy ships which were captured or detained at the outbreak of war. Under our prize court rules release of such goods can be obtained without the necessity of entering a claim in the prize court if the documents of title are produced to the officer representing His Majesty's Government, and the title to the goods is established to his satisfaction. It was shortly found, however, that this procedure did not provide for the case where the available evidence was so scanty that the officer representing the Crown was not justified in consenting to a release. In order, therefore, to ameliorate the situation we established a special committee, with full powers to authorise the release of goods without insisting on full evidence of title being produced. This committee dealt with the utmost expedition with a large number of claims. In the great majority of cases the goods claimed were released at once. In addition to the cases dealt with by this committee a very large amount of cargo was released at once by the procurator general on production of documents. Claimants therefore obtained their goods without the necessity of applying to the prize court and of incurring the expense involved in retaining lawyers, and without the risk, which was in some cases a considerable one, of the goods being eventually held to be enemy property and condemned. We have reason to know that our action in this matter was highly appreciated by many American citizens.

Another instance of the efforts which His Majesty's Government have made to deal as leniently as possible with neutral interests may be found in the policy which we have followed with regard to the transfer to a neutral flag of enemy ships belonging to companies which were incorporated in the enemy country, but all of whose shareholders were neutral. The rules applied by the British and by the American prize courts have always treated the flag as conclusive in favour of the captors in spite of neutral propriety interests (see the case of the *Pedro*, 175 U. S., 354). In several cases, however, we have consented to waive our belligerent rights to treat as enemy vessels ships belonging to companies incorporated in Germany which were subsidiary to and owned by American corporations. The only condition which we have imposed is that these vessels should take no further part in trade with the enemy country.

I have given these indications of the policy which we have followed, because I cannot help feeling that if the facts were more fully known as to the efforts which we have made to avoid inflicting any avoidable injury on neutral interests, many of the complaints which have been received by the administration in Washington, and which led to the protest which Your Excellency handed to me on the 29th December would never have been made. My hope is that when the facts which I have set out above are realised, and when it is seen that our naval operations have not diminished American trade with neutral countries, and that the lines on which we have acted are consistent with the fundamental principles of international law, it will be apparent to the Government and people of the United States that His Majesty's Government have hitherto endeavoured to exercise their belligerent rights with every possible consideration for the interests of neutrals.

It will still be our endeavour to avoid injury and loss to neutrals, but the announcement by the German Government of their intention to sink merchant vessels and their cargoes without verification of their nationality or character, and without making any provision for the safety of non-combatant crews or giving them a chance of saving their lives, has made it necessary for His Majesty's Government to consider what measures they should adopt to protect their interests. It is impossible for one belligerent to depart from rules and precedents and for the other to remain bound by them.

I have the honour, etc., etc.,

(Signed) E. GREY.

To His Excellency

The Honourable W. H. Page
etc., etc., etc.

The Secretary of State to Ambassador W. H. Page.
[Telegram.]

DEPARTMENT OF STATE,
Washington, February 15, 1915.

The department notes that you have been informed by the British Government that the cargo of the American steamer *Wilhelmina* has been sent to prize court, but is not yet unloaded. The Government of the United States, of course, has no intention of interfering with the proper course of judicial procedure in the British prize courts, but deems it proper to bring to the attention of the British Government information which has been received in relation to the character and destination of the cargo and to point out certain considerations prompting the supposition that the seizure may not be justified.

This Government is informed that the W. L. Green Commission Company, an American corporation organized in 1891, which in the past has made extensive shipments of goods to Germany, is the sole owner of the cargo which consists entirely of foodstuffs consigned to the W. L. Green Commission Company, Hamburg, and that the Company's manager, now in Europe, has instructions to sell the cargo solely to the civilian population of Hamburg. A copy of the ship's manifest has been submitted to this Government, accompanied by a sworn statement from the Company's manager in which he represents that he was instructed to proceed to Germany to dispose of the cargo to private purchasers in that country, and not to any belligerent government nor armed forces of such government, nor to any agent of a belligerent government or of its armed forces.

According to well-established practice among nations, admitted, as this Government understands, by the Government of Great Britain, the articles of which the *Wilhelmina's* cargo is said to consist, are subject to seizure as contraband only in case they are destined for the use of a belligerent government or its armed forces. The Government of the United States understands that the British authorities consider the seizure of the cargo justified on the ground that a recent order of the Federal Council of Germany, promulgated after the vessel sailed, required the delivery of imported articles to the German Government. The owners of the cargo have represented to this Government that such a position is untenable. They point out that, by a provision of the order in question as originally announced, the regulations in relation to the seizure of food products are made inapplicable to such products imported after January thirty-one, nineteen fifteen. They further represent that the only articles shipped on the *Wilhelmina* which are embraced within the terms of these regulations are wheat and bran, which constitute about fifteen per centum of the cargo as compared with eighty-five per centum consisting of meats, vegetables, and fruits. The owners also assert that the regulations contemplate the disposition of foodstuffs to individuals through municipalities; that municipalities are not agents of the Government, and that the purpose of the regulations is to conserve the supply of food products and to prevent speculation and inflation of prices to noncombatants.

The German Government has addressed a formal communication to the Government of the United States in relation to the effect of the decree issued by the German Federal Council, and this Government deems it pertinent to call to the attention of the British Government a material portion of this communication, which is as follows:

"1. The Federal Council's decision concerning the seizure of food products, which England alleges to be the cause of food products shipped to Germany being treated as contraband, bears exclusively on wheat, rye, both unmixed and mixed with other products, and also wheat, rye, oats, and barley flour.

"2. The Federal Council makes an express exception in section forty-five of the order. Section forty-five provides as follows: The stipulations of this regulation do not apply to grain or flour imported from abroad after January thirty-one.

"3. Conjunctively with that saving clause the Federal Council's order contains a provision under which imported cereals and flours would be sold exclusively to the municipalities or certain specially designated organizations by the importers. Although that provision had for its object simply to throw imported grain and flours into such channels as supply the private consumption of civilians and, in consequence of that provision, the intent and purpose of the Federal Council's order which was to protect the civilian population from speculators and engrossers were fully met, it was nevertheless rescinded so as to leave no room for doubt.

"4. My Government is amenable to any proposition looking to control by a special American organization under the supervision of the American Consular officers and, if necessary, will itself make a proposition in that direction.

"5. The German Government further calls attention to the fact that municipalities do not form part of or belong to the Government, but are self administrative bodies, which are elected by the inhabitants of the commune in accordance with fixed rules and therefore exclusively represent the private part of the population and act as it directs.

Although those principles are generally known and obtain in the United States as well as in England itself, the German Government desired to point out the fact so as to avoid any further unnecessary delay.

"6. Hence it is absolutely assured that imported food products will be consumed by the civilian population in Germany exclusively."

It will be observed that it is stated in this communication, which appears to confirm the contentions of the cargo owners, that a part of the order of the German Federal Council relating to imported food products has now been rescinded.

This Government has received another communication from the German Government giving formal assurance to the Government of the United States that all goods imported into Germany from the United States directly or indirectly, which belong to the class of relative contraband, such as foodstuffs, will not be used by the German army or navy or by Government authorities, but will be left to the free consumption of the German civilian population, excluding all Government purveyors.

If the British authorities have not in their possession evidence, other than that presented to this Government as to the character and destination of the cargo of the *Wilhelmina*, sufficient to warrant the seizure of this cargo, the Government of the United States hopes that the British Government will release the vessel together with her cargo and allow her to proceed to her port of destination.

Please communicate with the British Government in the sense of the foregoing.

BRYAN.

*German note, February 15, 1915, in reference to the proclamation of January 25, concerning foodstuffs.**

The German Ambassador to the Secretary of State.

1. The Federal Council's decision concerning the seizure of food products which England alleges to be the cause of food products shipped to Germany being treated as contraband, is exclusively on "wheat, rye, both unmixed and mixed with other products," and also "wheat, rye, oats, and barley flour."

2. The Federal Council makes an express exception in Section 45 of the order. Section 45 provides as follows: "The stipulations of this regulation do not apply to grain or flour imported from abroad after January 31."

3. Conjunctively with that saving clause, the Federal Council's order contains a provision under which imported cereals and flours could be sold exclusively to the municipalities of certain specially designated organizations by the importers. Although that provision had for its object simply to throw imported grain and flour into such channels as supply the private consumption of civilians, and, in consequence of that provision, the intent and purpose of the Federal Council's order which was to protect the civilian population from speculators and engrossers, were fully met, it was nevertheless rescinded so as to leave no room for doubt.

4. My Government is amenable to any proposition looking to control by a special American organization under the supervision of the American Consular officers, and, if necessary, will itself make a proposition in that direction.

5. The German Government further calls attention to the fact that municipalities do not form part of or belong to the Government, but are "self-administrative bodies," which are elected by the inhabitants of the commune in accordance with fixed rules, and, therefore, exclusively represent the private part of the population and act as it directs. Although these principles are generally known and obtain in the United States, as well as in England itself, the German Government desired to point out the fact so as to avoid any further unnecessary delay.

6. Hence it is absolutely assured that imported food products will be consumed by the civilian population in Germany exclusively, and there remains no doubt upon which England can prevent the exportation of food products from America to Germany for the use of civilians.

The Imperial Government expresses the firm hope that the American Government will stand on its right in this matter.

German statement, February 15, 1915, in regard to armed British merchantmen, the use of neutral flags and the mining of the war zone.†

Paraphrase of a note from the German Ambassador to the Secretary of State.

According to absolutely reliable information British merchant ships intend to op-

* Not printed in *Diplomatic Correspondence*, but referred to in preceding note.

† Not printed in *Diplomatic Correspondence*, etc. *The New York Times*, February 16, 1915.

pose armed resistance to German men-of-war in the area declared as war zone by the German Admiralty.

Some of these ships were already armed with British naval guns. Now all the others are speedily being equipped in a similar way. Merchant ships have been instructed to sail in groups, and to ram German submarines, while the examination is proceeding, or should the submarines lie alongside, to throw bombs upon them, or else to attempt to overpower the examining party coming on board.

A very high premium has been offered for the destruction of the first German submarine by a British merchant vessel. Therefore, British merchant ships cannot any more be considered as undefended, so that they may be attacked by German war vessels without warning or search. The British admitted that instructions had been given to misuse neutral flags. It is almost certain that British merchant vessels will by all means try to conceal their identity. Thereby, it also becomes almost impossible to ascertain the identity of neutral ships, unless they sail in daylight under convoy, as all measures suggested by neutrals, for instance, painting of the ships, in the national colors, may be promptly imitated by British ships. The attacks to be expected by masked British merchant vessels make a search impossible, as the examining party and the submarines themselves would thereby be exposed to destruction.

Under the circumstances, the safety of neutral shipping in the war zone around the British Isles is seriously threatened. There is also an increased danger resulting from mines, as these will be laid in the war zone to a great extent. Accordingly, neutral ships are urgently warned against entering that area, while the course around Scotland will be safe.

Germany has been compelled to resort to this kind of warfare by the murderous ways of British naval warfare, which aims at the destruction of legitimate neutral trade and at the starvation of the German people. Germany will be obliged to adhere to these announced principles till England submits to the recognized rules of warfare, established by the Declarations of Paris and London, or till she is compelled to do so by the neutral powers.

The German Minister for Foreign Affairs to Ambassador Gerard.

BERLIN, February 16, 1915.

In reference to the note of the twelfth instant, Foreign Office number twenty-two sixty, relative to the German measures respecting the theater of war in the waters surrounding England, the undersigned has the honor to reply to His Excellency the Ambassador of the United States, James W. Gerard, as follows:

The Imperial German Government have examined the communication of the Government of the United States in the same spirit of good will and friendship which seems to have prompted this communication.

The Imperial German Government are in entire accord with the Government of the United States that it is in the highest degree desirable for all parties to avoid the misunderstanding which might arise from the measures announced by the German Admiralty and to avert the intrusion of events calculated to interrupt the most friendly relations which have so happily existed between the two Governments up to this time.

On this assurance the German Government believe that they may depend on full understanding on the part of the United States, all the more because the action announced by the German Admiralty, as was dwelt upon at length in the note of the fourth instant, is in no wise directed against the legitimate trade and navigation of neutral states, but merely represents an act of self-defense which Germany's vital interests force her to take against England's method of conducting maritime war in defiance of international law, which no protest on the part of neutrals has availed to bring into accordance with the legal status generally recognized before the outbreak of hostilities.

In order to exclude all possible doubt on this cardinal point the German Government beg to set forth once more the actual situation.

Up to now Germany has scrupulously observed the existing provisions of international law relative to maritime war. In particular she assented without delay to the proposal made by the American Government directly after the war began to ratify the Declaration of London and embodied the contents thereof without change in her prize law, even without formally binding herself in this direction. The German Government have adhered to these provisions, even where they conflicted with military interests. Our Government at the same time have permitted the supply of food by Denmark to England until the present, although they could well have prevented this traffic by means of their naval forces.

In direct opposition to this, England has not shrunk from grave violations of international law wherever she could thereby cripple Germany's peaceable trade with neutral

countries. It will not be necessary for the German Government to go into great detail on this point, especially since the American note to the British Government dated December twenty-eighth, nineteen fourteen, which has been brought to their knowledge, has dealt with this point very aptly if not very exhaustively on the ground of the experiences of months.

It is conceded that the intention of all these aggressions is to cut off Germany from all supplies and thereby to deliver up to death by famine a peaceful civilian population, a procedure contrary to the laws of war and every dictate of humanity.

The neutrals have not been able to prevent this interception of different kinds of trade with Germany contrary to international law. It is true that the American Government have protested against England's procedure, and Germany is glad to acknowledge this, but in spite of this protest and the protests of the other neutral Governments England has not allowed herself to be dissuaded from the course originally adopted. Thus, the American ship *Wilhelmina* was recently brought into port by England, although her cargo was destined solely for the civil population of Germany and was to be used only for this purpose according to an express declaration of the German Government.

In this way the following has been created: Germany is to all intents and purposes cut off from oversea supplies with the toleration, tacit or protesting, of the neutrals regardless of whether it is a question of goods which are absolute contraband, or only conditional contraband, or not contraband at all, following the law generally recognized before the outbreak of the war. On the other hand England with the indulgence of neutral Governments is not only being provided with such goods as are not contraband or merely conditional contraband, namely, foodstuffs, raw material, et cetera, although these are treated by England when Germany is in question as absolute contraband, but also with goods which have been regularly and unquestionably acknowledged to be absolute contraband. The German Government believe that they are obliged to point out very particularly and with the greatest emphasis, that a trade in arms exists between American manufacturers and Germany's enemies which is estimated at many hundred million marks.

The German Government have given due recognition to the fact that as a matter of form the exercise of rights and the toleration of wrong on the part of neutrals is limited by their pleasure alone and involves no formal breach of neutrality. The German Government have not in consequence made any charge of formal breach of neutrality. The German Government can not, however, do otherwise, especially in the interest of absolute clearness in the relations between the two countries, than to emphasize that they, in common with the public opinion in Germany, feel themselves placed at a great disadvantage through the fact that the neutral powers have hitherto achieved no success or only an unmeaning success in their assertion of the right to trade with Germany, acknowledged to be legitimate by international law, whereas they make unlimited use of their right to tolerate trade in contraband with England and our other enemies. Conceded that it is the formal right of neutrals not to protect their legitimate trade with Germany and even to allow themselves knowingly and willingly to be induced by England to restrict such trade, it is on the other hand not less their good right, although unfortunately not exercised, to stop trade in contraband, especially the trade in arms, with Germany's enemies.

In view of this situation the German Government see themselves compelled, after six months of patience and watchful waiting, to meet England's murderous method of conducting maritime war with drastic counter measures. If England invokes the powers of famine as an ally in its struggle against Germany with the intention of leaving a civilized people the alternative of perishing in misery or submitting to the yoke of England's political and commercial will, the German Government are to-day determined to take up the gauntlet and to appeal to the same grim ally. They rely on the neutrals who have hitherto tacitly or under protest submitted to the consequences, detrimental to themselves, of England's war of famine to display not less tolerance toward Germany, even if the German measures constitute new forms of maritime war, as has hitherto been the case with the English measures.

In addition to this, the German Government are determined to suppress with all the means at their disposal the supply of war material to England and her allies and assume at the same time that it is a matter of course that the neutral Governments which have hitherto undertaken no action against the trade in arms with Germany's enemies do not intend to oppose the forcible suppression of this trade by Germany.

Proceeding from these points of view, the German Admiralty has declared the zone prescribed by it the seat of war; it will obstruct this area of maritime war by mines wherever possible and also endeavor to destroy the merchant vessels of the enemy in any other way.

It is very far indeed from the intention of the German Government, acting in obedience to these compelling circumstances, ever to destroy neutral lives and neutral property, but on the other hand they can not be blind to the fact that dangers arise through the action to be carried out against England which menace without discrimination all trade within the area of maritime war. This applies as a matter of course to war mines, which place any ship approaching a mined area in danger, even if the limits of international law are adhered to most strictly.

The German Government believe that they are all the more justified in the hope that the neutral powers will become reconciled with this, just as they have with the serious injury caused them thus far by England's measures, because it is their will to do everything in any way compatible with the accomplishment of their purpose for the protection of neutral shipping even within the area of maritime war.

They furnish the first proof of their good will by announcing the measures intended by them at a time not less than two weeks beforehand, in order to give neutral shipping an opportunity to make the necessary arrangements to avoid the threatening danger. The safest method of doing this is to stay away from the area of maritime war. Neutral ships entering the closed waters in spite of this announcement, given so far in advance, and which seriously impairs the accomplishment of the military purpose against England, bear their own responsibility for any unfortunate accidents. The German Government on their side expressly decline all responsibility for such accidents and their consequences.

Furthermore, the German Government announced merely the destruction of enemy merchant vessels found within the area of maritime war, and not the destruction of all merchant vessels, as the American Government appear to have erroneously understood. This limitation which the German Government have imposed upon themselves impairs the military purpose, especially since the presumption will prevail, even in the case of neutral ships, that they have contraband on board, in view of the interpretation of the idea of contraband in which the English Government have indulged as regards Germany and which the German Government will accordingly apply against England.

Naturally the Imperial Government are not willing to waive the right to establish the presence of contraband in the cargoes of neutral ships and, in cases requiring it, to take any action necessary on the grounds established. Finally the German Government are prepared to accord, in conjunction with the American Government, the most earnest consideration to any measure that might be calculated to insure the safety of legitimate shipping of neutrals within the seat of war. They can not, however, overlook the fact that all efforts in this direction are considerably hampered by two circumstances: First, by the misuse of the neutral flag by English merchant vessels, which in the meantime has probably been established beyond a doubt by the American Government likewise. Second, by the above-mentioned trade in contraband, especially war materials, by neutral merchant vessels. In regard to the latter point, the German Government ventures to hope that the American Government upon reconsideration will see their way clear to a measure of intervention in accordance with the spirit of true neutrality.

As regards the first point, the secret order of the British Admiralty has already been communicated to the American Government by Germany. It recommends English merchant vessels to use neutral flags and has in the meantime been confirmed by a statement of the British Foreign Office which refers to the municipal law of England and characterizes such action as quite unobjectionable. The English merchant marine has followed this counsel without delay, as is probably known to the American Government, from the cases of the *Lusitania* and *Laertes*. Moreover, the British Government have armed English merchant vessels and instructed them to resist by force the German submarines. In these circumstances it is very difficult for the German submarines to recognize neutral merchant vessels as such, for even a search will not be possible in the majority of cases, since the attacks to be anticipated in the case of a disguised English ship would expose the commanders conducting a search and the boat itself to the danger of destruction.

The British Government would then be in a position to render the German measures illusory if their merchant marine persists in the misuse of neutral flags and neutral vessels are not marked in some other manner admitting of no possible doubt. Germany must, in the exigency into which she has unlawfully been forced, make her measures effective at all events in order thereby to compel her adversary to conduct maritime warfare in accordance with international law and thus to re-establish the freedom of the seas which she has ever advocated and for which she is fighting likewise to-day.

The German Government, therefore, welcomes the fact that the American Government have made representations to the British Government relative to the use of their flag contrary to law and give expression to the expectation that this action will cause England to respect the American flag in future.

In this expectation the commanders of the German submarines have been instructed, as was already stated in the note of fourth instant, to abstain from violence to American merchant vessels when they are recognizable as such.

In order to meet in the safest manner all the consequences of mistaking an American for a hostile merchant vessel the German Government recommended that (although this would not apply in the case of danger from mines) the United States convoy their ships carrying peaceable cargoes and traversing the English seat of maritime war in order to make them recognizable. In this connection the German Government believe it should be made a condition that only such ships should be convoyed as carry no merchandise which would have to be considered as contraband according to the interpretation applied by England against Germany. The German Government are prepared to enter into immediate negotiations with the American Government relative to the manner of convoy. They would, however, be particularly grateful if the American Government would urgently advise their merchant vessels to avoid the English seat of maritime war, at any rate until the flag question is settled.

The German Government resign themselves to the confident hope that the American Government will recognize the full meaning of the severe struggle which Germany is conducting for her very existence and will gain full understanding of the reasons which prompt Germany and the aims of the measures announced by her from the above explanations and promises.

The German Government repeat that in the scrupulous consideration for neutrals hitherto practiced by them they have determined upon the measures planned only under the strongest compulsion of national self-preservation. Should the American Government at the eleventh hour succeed in removing, by virtue of the weight which they have the right and ability to throw into the scales of the fate of peoples, the reasons which have made it the imperative duty of the German Government to take the action indicated, should the American Government in particular find a way to bring about the observation of the Declaration of London on the part of the Powers at war with Germany and thereby to render possible for Germany the legitimate supply of foodstuffs and industrial raw materials, the German Government would recognize this as a service which could not be too highly estimated in favor of more humane conduct of war and would gladly draw the necessary conclusions from the new situation thus created.

The undersigned requests the Ambassador to bring the above to the attention of the American Government and avails himself of the opportunity to renew, et cetera.

VON JAGOW.

Ambassador W. H. Page to the Secretary of State.
[Telegram.]

AMERICAN EMBASSY,
London, February 19, 1915.

Your 1105, 10th. Sir Edward Grey has just handed me the following memorandum since your telegram to him was given to the press in Washington. I consented to his proposal to give this memorandum out for publication in Saturday morning newspapers:

The memorandum communicated on the 11th February calls attention in courteous and friendly terms to the action of the captain of the British S. S. *Lusitania* in raising the flag of the United States of America when approaching British waters and says that the Government of the United States feel a certain anxiety in considering the possibility of any general use of the flag of the United States by British vessels traversing those waters since the effect of such a policy might be to bring about a menace to the lives and vessels of United States citizens.

It was understood that the German Government had announced their intention of sinking British merchant vessels at sight by torpedoes without giving any opportunity of making any provision for saving the lives of noncombatant crews and passengers. It was in consequence of this threat that the *Lusitania* raised the United States flag on her inward voyage and on her subsequent outward voyage. A request was made by the United States passengers who were embarking on board her that the United States flag should be hoisted presumably to insure their safety. Meanwhile the memorandum from Your Excellency had been received. His Majesty's Government did not give any advice to the company as to how to meet this request and it is understood that the *Lusitania* left Liverpool under the British flag.

It seems unnecessary to say more as regards the *Lusitania* in particular regard to the use of foreign flags by merchant vessels. The British merchant shipping act makes it clear that the use of the British flag by foreign merchant vessels is permitted in time of war for the purpose of escaping capture. It is believed that in the case of some other nations there is a similar recognition of the same practice with regard to their flags and that none have forbidden it. It would therefore be unreasonable to expect His Majesty's Government to pass legislation forbidding the use of foreign flags by British merchant vessels to avoid capture by the enemy. Now that the German Government have announced their intention to sink merchant vessels at sight with their noncombatant crews, cargoes, and papers, a proceeding hitherto regarded by the opinion of the world not as war, but as piracy, it is felt that the United States Government could not fairly ask the British Government to order British merchant vessels to forego the means—always hitherto permitted—of escaping not only capture but the much worse fate of sinking and destruction. Great Britain has always when neutral accorded to the vessels of other States

at war liberty to use the British flag as a means of protection against capture, and instances are on record when United States vessels availed themselves of this facility during the American Civil War. It would be contrary to fair expectation if now when the conditions are reversed the United States and neutral nations were to grudge to British ships liberty to take similar action. The British Government have no intention of advising their merchant shipping to use foreign flags as general practice or to resort to them otherwise than for escaping capture or destruction.

The obligation upon a belligerent warship to ascertain definitely for itself the nationality and character of a merchant vessel before capturing it and "a fortiori" before sinking and destroying it has been universally recognized. If that obligation is fulfilled, hoisting a neutral flag on board a British vessel cannot possibly endanger neutral shipping and the British Government hold that if loss to neutrals is caused by disregard of this obligation it is upon the enemy vessel disregarding it and upon the Government giving orders that it should be disregarded that the sole responsibility for injury to neutrals ought to rest.

PAGE.

Ambassador W. H. Page to the Secretary of State.
[Telegram.]

AMERICAN EMBASSY,
London, February 19, 1915.

Sir Edward Grey has just handed me the following memorandum. Since your telegram to him was given to the press in Washington I consented to his proposal to give this memorandum out for publication in Saturday morning's newspapers:

MEMORANDUM.

The communication made by the United States Ambassador in his note to Sir Edward Grey of the sixteenth instant has been carefully considered and the following observations are offered in reply:—

2. At the time when His Majesty's Government gave directions for the seizure of the cargo of the steamship *Wilhelmina* as contraband they had before them the text of the decree made by the German Federal Council on the twenty-fifth January, under Article forty-five of which all grain and flour imported into Germany after the thirty-first January was declared deliverable only to certain organizations under direct government control or to municipal authorities. The vessel was bound for Hamburg, one of the free cities of the German Empire, the government of which is vested in the municipality. This was one of the reasons actuating His Majesty's Government in deciding to bring the cargo of the *Wilhelmina* before the prize court.

3. Information has only now reached them that by a subsequent decree, dated the sixth February, the above provision in Article forty-five of the previous decree was repealed, it would appear for the express purpose of rendering difficult the anticipated proceedings against the *Wilhelmina*. The repeal was not known to His Majesty's Government at the time of detention of the cargo, or indeed, until now.

4. How far the ostensible exception of imported supplies from the general Government monopoly of all grain and flour set up by the German Government may affect the question of the contraband nature of the shipment seized is a matter which will most suitably be investigated by the prize court.

5. It is, however, necessary to state that the German decree is not the only ground on which the submission of the cargo of the *Wilhelmina* to a prize court is justified. The German Government have in public announcements claimed to treat practically every town or port on the English east coast as a fortified place and base of operations. On the strength of this contention they have subjected to bombardment the open towns of Yarmouth, Scarborough, and Whitby, among others. On the same ground, a number of neutral vessels sailing for English ports on the east coast with cargoes of goods on the German list of conditional contraband have been seized by German cruisers and brought before the German prize court. Again, the Dutch vessel *Maria*, having sailed from California with a cargo of grain consigned to Dublin and Belfast, was sunk in September last by the German cruiser *Karlsruhe*. This could only have been justified if, among other things, the cargo could have been proved to be destined for the British Government or armed forces and if a presumption to this effect had been established owing to Dublin or Belfast being considered a fortified place or a base for the armed forces.

6. The German Government can not have it both ways. If they consider themselves justified in destroying by bombardment the lives and property of peaceful civil inhabitants of English open towns and watering places, and in seizing and sinking ships and cargoes of conditional contraband on the way thither, on the ground that they were consigned to a fortified place or base, "a fortiori" His Majesty's Government must be at liberty to treat Hamburg, which is in part protected by the fortifications at the mouth of the Elbe, as a fortified town, and a base of operations and supply for the purposes of Article thirty-four of the Declaration of London. If the owners of the cargo of the *Wilhelmina* desire to question the validity in international law of the action taken by order of His Majesty's Government they will have every opportunity of establishing their case in due course before the prize court, and His Majesty's Government would, in this connection, recall the attention of the United States Government to the considerations put forward in Sir Edward Grey's note to Mr. Page of the tenth instant as to the propriety of awaiting the result of prize court proceedings before diplomatic action is initiated. It will be remembered that they have from the outset given a definite assurance that the owners of the *Wilhelmina*, as well as the owners of her cargo, if found to be contraband would be equitably indemnified.

7. There is one further observation to which His Majesty's Government think it right, and appropriate in the present connection, to give expression. They have not, so far, declared foodstuffs to be absolute contraband. They have not interfered with any neutral vessels on account of their carrying foodstuffs, except on the basis of such foodstuffs being liable to capture if destined for the enemy forces or governments. In so acting they have been guided by the general principle, of late universally upheld by civilized nations, and observed in practice, that the civil populations of countries at war are not to be exposed to the treatment rightly reserved for combatants. This distinction has to all intents and purposes been swept away by the novel doctrines proclaimed and acted upon by the German Government.

8. It is unnecessary here to dwell upon the treatment that has been meted out to the civil population of Belgium, and those parts of France which are in German occupation. When Germany, long before any mines had been laid by British authorities, proceeded to sow mines upon the high seas, and, by this means, sunk a considerable number not only of British but also of neutral merchantmen with their unoffending crews, it was, so His Majesty's Government held, open to them to take retaliatory measures, even if such measures were of a kind to involve pressure of the civil population—not indeed of neutral states—but of their enemies. They refrained from doing so.

9. When, subsequently, English towns and defenseless British subjects, including women and children, were deliberately and systematically fired upon and killed by ships flying the flag of the Imperial German Navy, when quiet country towns and villages, void of defenses, and possessing no military or naval importance, were bombarded by German airships, His Majesty's Government still abstained from drawing the logical consequences from this form of attack on defenseless citizens. Further steps in the same direction are now announced, and in fact have already been taken, by Germany. British merchant vessels have been torpedoed at sight without any attempt being made to give warning to the crew, or any opportunity being given to save their lives, a torpedo has been fired against a British hospital ship in daylight, and similar treatment is threatened to all British merchant vessels in future as well as to any neutral ships that may happen to be found in the neighborhood of the British Isles.

10. Faced with this situation, His Majesty's Government consider it would be altogether unreasonable that Great Britain and her allies should be expected to remain indefinitely bound, to their grave detriment, by rules and principles of which they recognize the justice if impartially observed as between belligerents, but which are at the present moment openly set at defiance by their enemy.

11. If, therefore, His Majesty's Government should hereafter feel constrained to declare foodstuffs absolute contraband, or to take other measures for interfering with German trade, by way of reprisals, they confidently expect that such action will not be challenged on the part of neutral states by appeals to laws and usages of war whose validity rests on their forming an integral part of that system of international doctrine which as a whole their enemy frankly boasts the liberty and intention to disregard, so long as such neutral states can not compel the German Government to abandon methods of warfare which have not in recent history been regarded as having the sanction of either law or humanity.

PAGE.

The Secretary of State to Ambassador W. H. Page.¹

[Telegram.]

DEPARTMENT OF STATE,
WASHINGTON, February 20, 1915.

You will please deliver to Sir Edward Grey the following identic note which we are sending England and Germany:

In view of the correspondence which has passed between this Government and Great Britain and Germany respectively, relative to the declaration of a war zone by the German Admiralty and the use of neutral flags by British merchant vessels, this Government ventures to express the hope that the two belligerent Governments may, through reciprocal concessions, find a basis for agreement which will relieve neutral ships engaged in peaceful commerce from the great dangers which they will incur in the high seas adjacent to the coasts of the belligerents.

The Government of the United States respectfully suggests that an agreement in terms like the following might be entered into. This suggestion is not to be regarded as in any sense a proposal made by this Government, for it of course fully recognizes that it is not its privilege to propose terms of agreement between Great Britain and Germany, even though the matter be one in which it and the people of the United States are directly and deeply interested. It is merely venturing to take the liberty which it hopes may be accorded a sincere friend desirous of embarrassing neither nation involved and of serving, if it may, the common interests of humanity. The course outlined is offered in the hope that it may draw forth the views and elicit the suggestions of the British and German Governments on a matter of capital interest to the whole world.

Germany and Great Britain to agree:

1. That neither will sow any floating mines, whether upon the high seas or in territorial waters; that neither will plant on the high seas anchored mines except within cannon range of harbors for defensive purposes only; and that all mines shall bear the stamp of the Government planting them and be so constructed as to become harmless if separated from their moorings.

2. That neither will use submarines to attack merchant vessels of any nationality except to enforce the right of visit and search.

3. That each will require their respective merchant vessels not to use neutral flags for the purpose of disguise or *ruse de guerre*.

Germany to agree:

That all importations of food or foodstuffs from the United States (and from such other neutral countries as may ask it) into Germany shall be consigned to agencies to be designated by the United States Government; that these American agencies shall have

¹ Same to the American Embassy at Berlin.

entire charge and control without interference on the part of the German Government, of the receipt and distribution of such importations, and shall distribute them solely to retail dealers bearing licenses from the German Government entitling them to receive and furnish such food and foodstuffs to noncombatants only; that any violation of the terms of the retailers' licenses shall work a forfeiture of their rights to receive such food and foodstuffs for this purpose; and that such food and foodstuffs will not be requisitioned by the German Government for any purpose whatsoever or be diverted to the use of the armed forces of Germany.

Great Britain to agree:

That food and foodstuffs will not be placed upon the absolute contraband list and that shipments of such commodities will not be interfered with or detained by British authorities if consigned to agencies designated by the United States Government in Germany for the receipt and distribution of such cargoes to licensed German retailers for distribution solely to the noncombatant population.

In submitting this proposed basis of agreement this Government does not wish to be understood as admitting or denying any belligerent or neutral right established by the principles of international law, but would consider the agreement, if acceptable to the interested powers, a *modus vivendi* based upon expediency rather than legal right and as not binding upon the United States either in its present form or in a modified form until accepted by this Government.

BRYAN.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, March 1, 1915.

Following is translation of the German reply:

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of the 22d instant that the Imperial German Government have taken note with great interest of the suggestion of the American Government that certain principles for the conduct of maritime war on the part of Germany and England be agreed upon for the protection of neutral shipping. They see therein new evidence of the friendly feelings of the American Government toward the German Government which are fully reciprocated by Germany.

It is in accordance with Germany's wishes also to have maritime war conducted according to rules which without discriminately restricting one or the other of the belligerent powers in the use of their means of warfare are equally considerate of the interests of neutrals and the dictates of humanity. Consequently it was intimated in the German note of the 16th instant that observation of the Declaration of London on the part of Germany's adversaries would create a new situation from which the German Government would gladly draw the proper conclusions.

Proceeding from this view, the German Government have carefully examined the suggestion of the American Government and believe that they can actually see in it a suitable basis for the practical solution of the questions which have arisen.

With regard to the various points of the American note they beg to make the following remarks:

1. With regard to the sowing of mines, the German Government would be willing to agree as suggested not to use floating mines and to have anchored mines constructed as indicated. Moreover, they agree to put the stamp of the Government on all mines to be planted. On the other hand, it does not appear to them to be feasible for the belligerents wholly to forego the use of anchored mines for offensive purposes.

2. The German Government would undertake not to use their submarines to attack mercantile ships of any flag except when necessary to enforce the right of visit and search. Should the enemy nationality of the vessel or the presence of contraband be ascertained submarine would proceed in accordance with the general rules of international law.

3. As provided in the American note, this restriction of the use of the submarines is contingent on the fact that enemy mercantile abstain from the use of the neutral flag and other neutral distinctive marks. It would appear to be a matter of course that such mercantile also abstain from arming themselves and from all resistance by force, since such procedure contrary to international law would render impossible any action of the submarines in accordance with international law.

4. The regulation of legitimate importations of food into Germany suggested by the American Government appears to be in general acceptable. Such regulation would, of course, be confined to importations by sea, but that would on the other hand include indi-

rect importations by way of neutral ports. The German Government would, therefore, be willing to make the declarations of the nature provided in the American note so that the use of the imported food and foodstuffs solely by the noncombatant population would be guaranteed. The Imperial Government must, however, in addition (* * *)¹ having the importation of other raw material used by the economic system of noncombatants including forage permitted. To that end the enemy Governments would have to permit the free entry into Germany of the raw material mentioned in the free list of the Declaration of London and to treat materials included in the list of conditional contraband according to the same principles as food and foodstuffs.

The German Government venture to hope that the agreement for which the American Government have paved the way may be reached after due consideration of the remarks made above, and that in this way peaceable neutral shipping and trade will not have to suffer any more than is absolutely necessary from the unavoidable effects of maritime war. These effects could be still further reduced if, as was pointed out in the German note of the 16th instant, some way could be found to exclude the shipping of munitions of war from neutral countries to belligerents on ships of any nationality.

The German Government must, of course, reserve a definite statement of their position until such time as they may receive further information from the American Government enabling them to see what obligations the British Government are on their part willing to assume.

The undersigned avails himself of this occasion, etc.

Dated Foreign Office, Berlin, February 28, 1915.

(Signed) VON JAGOW.
GERARD.

The British Ambassador to the Secretary of State.

Germany has declared that the English Channel, the north and west coasts of France, and the waters around the British Isles are a war area and has officially notified that all enemy ships found in that area will be destroyed and that neutral vessels may be exposed to danger. This is in effect a claim to torpedo at sight, without regard to the safety of the crew or passengers, any merchant vessel under any flag. As it is not in the power of the German Admiralty to maintain any surface craft in these waters, this attack can only be delivered by submarine agency.

The law and custom of nations in regard to attacks on commerce have always presumed that the first duty of the captor of a merchant vessel is to bring it before a prize court where it may be tried, where the regularity of the capture may be challenged and where neutrals may recover their cargoes. The sinking of prizes is in itself a questionable act to be resorted to only in extraordinary circumstances and after provision has been made for the safety of all the crew or passengers, if there are passengers on board. The responsibility for discriminating between neutral and enemy vessels, and between neutral and enemy cargo, obviously rests with the attacking ship, whose duty is to verify the status and character of the vessel and cargo and to preserve all papers before sinking or even capturing it. So also is the humane duty of providing for the safety of the crews of merchant vessels, whether neutral or enemy, an obligation upon every belligerent.

It is upon this basis that all previous discussions of the law for regulating warfare at sea have proceeded. A German submarine, however, fulfills none of these obligations; she enjoys no local command of the waters in which she operates; she does not take her captures within the jurisdiction of a prize court; she carries no prize crew which she can put on board a prize; she uses no effective means of discriminating between a neutral and an enemy vessel; she does not receive on board for safety the crew and passengers of the vessel she sinks; her methods of warfare are therefore entirely outside the scope of any of the international instruments regulating operations against commerce in time of war. The German declaration substitutes indiscriminate destruction for regulated capture. Germany is adopting these methods against peaceful traders and non-combatant crews with the avowed object of preventing commodities of all kinds, including food for the civil population, from reaching or leaving the British Isles or northern France.

Her opponents are therefore driven to frame retaliatory measures in order in their turn to prevent commodities of any kind from reaching or leaving Germany. These measures will, however, be enforced by the British and French Governments without risk to neutral ships or to neutral or noncombatant life and in strict observance of the dictates of humanity. The British and French Governments will therefore hold themselves free to detain and take into port ships carrying goods of presumed enemy destina-

¹ Apparent omission.

tion, ownership, or origin. It is not intended to confiscate such vessels or cargoes unless they would otherwise be liable to condemnation. The treatment of vessels and cargoes which have sailed before this date will not be affected.

CECIL SPRING-RICE.

BRITISH EMBASSY,
Washington, March 1, 1915.

The Secretary of State to Ambassador W. H. Page.
[Telegram.]

DEPARTMENT OF STATE,
Washington, March 5, 1915.

In regard to the recent communications received from the British and French Governments concerning restraints upon commerce with Germany, please communicate with the British foreign office in the sense following:

The difficulty of determining action upon the British and French declarations of intended retaliation upon commerce with Germany lies in the nature of the proposed measures in their relation to commerce by neutrals.

While it appears that the intention is to interfere with and take into custody all ships both outgoing and incoming, trading with Germany, which is in effect a blockade of German ports, the rule of blockade, that a ship attempting to enter or leave a German port regardless of the character of its cargo may be condemned, is not asserted.

The language of the declaration is "the British and French Governments will, therefore, hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership, or origin. It is not intended to confiscate such vessels or cargoes unless they would otherwise be liable to condemnation."

The first sentence claims a right pertaining only to a state of blockade. The last sentence proposes a treatment of ships and cargoes as if no blockade existed. The two together present a proposed course of action previously unknown to international law.

As a consequence neutrals have no standard by which to measure their rights or to avoid danger to their ships and cargoes. The paradoxical situation thus created should be changed and the declaring powers ought to assert whether they rely upon the rules governing a blockade or the rules applicable when no blockade exists.

The declaration presents other perplexities.

The last sentence quoted indicates that the rules of contraband are to be applied to cargoes detained. The rule covering noncontraband articles carried in neutral bottoms is that the cargoes shall be released and the ships allowed to proceed. This rule can not, under the first sentence quoted, be applied as to destination. What then is to be done with a cargo of noncontraband goods detained under the declaration? The same question may be asked as to conditional contraband cargoes.

The foregoing comments apply to cargoes destined for Germany. Cargoes coming out of German ports present another problem under the terms of the declaration. Under the rules governing enemy exports only goods owned by enemy subjects in enemy bottoms are subject to seizure and condemnation. Yet by the declaration it is purposed to seize and take into port all goods of enemy "ownership and origin." The word "origin" is particularly significant. The origin of goods destined to neutral territory on neutral ships is not and never has been a ground for forfeiture except in case a blockade is declared and maintained. What then would the seizure amount to in the present case except to delay the delivery of the goods? The declaration does not indicate what disposition would be made of such cargoes if owned by a neutral or if owned by an enemy subject. Would a different rule be applied according to ownership? If so, upon what principles of international law would it rest? And upon what rule if no blockade is declared and maintained could the cargo of a neutral ship sailing out of a German port be condemned? If it is not condemned, what other legal course is there but to release it?

While this Government is fully alive to the possibility that the methods of modern naval warfare, particularly in the use of the submarine for both defensive and offensive operations, may make the former means of maintaining a blockade a physical impossibility, it feels that it can be urged with great force that there should be also some limit to "the radius of activity," and especially so if this action by the belligerents can be construed to be a blockade. It would certainly create a serious state of affairs if, for example, an American vessel laden with a cargo of German origin should escape the British patrol in European waters only to be held up by a cruiser off New York and taken into Halifax.

Similar cablegram sent to Paris.

BRYAN.

Consul General Skinner to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,
London, March 9, 1915.

British Government announces that: "All cotton for which contracts of sale and freight engagements had already been made before March 2, to be allowed free or bought at contract price if stopped provided the ship sails not later than March 31; similar treatment to be accorded to all cotton insured before March 2, provided the cotton is put on board not later than March 16. All shipments of cotton claiming the above protection to be declared before sailing and documents produced to and certificates obtained from consular officers or other authority fixed by the Government."

SKINNER.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, March 10, 1915

The British Ambassador presents his compliments to the Secretary of State, and has the honor to transmit herewith twenty copies of a list enumerating certain oils and substances included under the heading "Lubricants" in the British list of articles to be treated as conditional contraband.

CECIL SPRING-RICE.

[Inclosure.]

OILS AND SUBSTANCES INCLUDED UNDER THE HEADING LUBRICANTS IN THE BRITISH LIST OF ARTICLES TO BE TREATED AS CONDITIONAL CONTRABAND.

I. Principal oils used as lubricants:

- Tallow oil.
- Lard oil.
- Neat's-foot oil (including sheep's foot oil, horse's foot oil, and fatty bone oil).
- Olive oil.
- Rape oil (including Colza oil, Ravisson oil, or Black Sea rape oil, and Jamba oil).
- Castor oil.
- Particularly for fine mechanisms—
- Hazelnut oil.
- Ben oil.
- Porpoise oil (including body oil and jaw oil).
- Dolphin oil or blackfish oil (including body oil and jaw oil).
- Sperm oil.
- Arctic sperm oil.
- Whale oil.
- Rosin oil.

II. Solid lubricants:

1. Graphite (including natural graphite, artificial graphite, Atcheson's graphite, colloidal graphite, deflocculated graphite, "Oildag," "Aquadag," or "Waterdag").
2. Mineral jellies.
3. Tallow (including mutton-tallow, beef-tallow and goat-and-buck-tallow).
4. All unctuous bodies which do not flow (or flow extremely slowly) at ordinary temperatures containing:
 - a. Tallow mixed with any other oil, fat, or mineral jelly.
 - b. Any oil, fat, or mineral jelly containing aluminum soap, lead soap, lime soap, or rosin soap.
 - c. Commercial forms of lead soap, lime soap, and aluminium soap.
 - d. Any oil, fat, or mineral jelly containing water and an alkali, or containing potash or soda soap (but not including "superfatted soaps" of various kinds).
5. Rosin greases or rosin soaps.

Aluminium soap in oleaginous solution is also known as "oil-pulp," "thickener," "gelatin," and "viscom."

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, March 15, 1915.

Following is the full text of a memorandum dated March 13, which Grey handed me to-day:

On the 22d of February last I received a communication from Your Excellency of the identic note addressed to His Majesty's Government and to Germany, respecting an agreement on certain points as to the conduct of the

war at sea. The reply of the German Government to this note has been published and it is not understood from the reply that the German Government are prepared to abandon the practice of sinking British merchant vessels by submarines, and it is evident from their reply that they will not abandon the use of mines for offensive purposes on the high seas as contrasted with the use of mines for defensive purposes only within cannon range of their own harbors as suggested by the Government of the United States. This being so, it might appear unnecessary for the British Government to make any further reply than to take note of the German answer. We desire, however, to take the opportunity of making a fuller statement of the whole position and of our feeling with regard to it. We recognize with sympathy the desire of the Government of the United States to see the European war conducted in accordance with the previously recognized rules of international law and the dictates of humanity. It is thus that the British forces have conducted the war, and we are not aware that these forces, either naval or military, can have laid to their charge any improper proceedings, either in the conduct of hostilities or in the treatment of prisoners or wounded. On the German side it has been very different.

1. The treatment of civilian inhabitants in Belgium and the north of France has been made public by the Belgian and French Governments and by those who have had experience of it at first hand. Modern history affords no precedent for the sufferings that have been inflicted on the defenseless and noncombatant population in the territory that has been in German military occupation. Even the food of the population was confiscated until in Belgium an International Commission, largely influenced by American generosity and conducted under American auspices, came to the relief of the population and secured from the German Government a promise to spare what food was still left in the country, though the Germans still continue to make levies in money upon the defenseless population for the support of the German Army.

2. We have from time to time received most terrible accounts of the barbarous treatment to which British officers and soldiers have been exposed after they have been taken prisoner while being conveyed to German prison camps; one or two instances have already been given to the United States Government founded upon authentic and first-hand evidence which is beyond doubt. Some evidence has been received of the hardships to which British prisoners of war are subjected in the prison camps contrasting, we believe, most unfavorably with the treatment of German prisoners in this country. We have proposed, with the consent of the United States Government, that a commission of United States officers should be permitted in each country to inspect the treatment of prisoners of war. The United States Government have been unable to obtain any reply from the German Government to this proposal and we remain in continuing anxiety and apprehension as to the treatment of British prisoners of war in Germany.

3. At the very outset of the war a German mine layer was discovered laying a mine field on the high seas. Further mine fields have been laid from time to time without warning and so far as we know are still being laid on the high seas, and many neutral as well as British vessels have been sunk by them.

4. At various times during the war German submarines have stopped and sunk British merchant vessels, thus making the sinking of merchant vessels a general practice, though it was admitted previously, if at all, only as an exception, the general rule to which the British Government have adhered being that merchant vessels, if captured, must be taken before a prize court. In one case already quoted in a note to the United States Government, a neutral vessel carrying foodstuffs to an unfortified town in Great Britain has been sunk. Another case is now reported in which a German armed cruiser has sunk an American vessel, the *William P. Frye*, carrying a cargo of wheat from Seattle to Queenstown. In both cases the cargoes were presumably destined for the civil population. Even the cargoes in such circumstances should not have been condemned without the decision of a prize court, much less should the vessels have been sunk. It is to be noted that both these cases occurred before the detention by the British authorities of the *Wilhelmina* and her cargo of foodstuffs which the German Government allege is the justification for their own action. The Germans have announced their intention of sinking British merchant vessels by torpedo without notice and without any provision for the safety of the crew. They have already carried out this intention in the case of neutral as well as of British vessels, and a number of noncombatant and innocent lives on British vessels, unarmed and defenseless, have been destroyed in this way.

5. Unfortified, open, and defenseless towns, such as Scarborough, Yarmouth, and Whitby, have been deliberately and wantonly bombarded by German ships of war, causing in some cases considerable loss of civilian life, including women and children.

6. German aircraft have dropped bombs on the east coast of England where there were no military or strategic points to be attacked. On the other hand, I am aware of but two criticisms that have been made on British action in all these respects: (1) It is said that the British naval authorities also have laid some anchored mines on the high seas. They have done so, but the mines were anchored and so constructed that they would be harmless if they went adrift, and no mines whatever were laid by the British naval authorities till many weeks after the Germans had made a regular practice of laying mines on the high seas. (2) It is said that the British Government have departed from the view of international law which they had previously maintained that foodstuffs destined for the civil population should never be interfered with, this charge being founded on the submission to a prize court of the cargo of the *Wilhelmina*. The special considerations affecting this cargo have already been presented in a memorandum to the United States Government, and I need not repeat them here. Inasmuch as the stoppage of all foodstuffs is an admitted consequence of blockade, it is obvious that there can be no universal rule based on considerations of morality and humanity which is contrary to this practice. The right to stop foodstuffs destined for the civil population must therefore in any case be admitted if an effective "cordon" controlling intercourse with the enemy is drawn, announced, and maintained. Moreover, independently of rights arising from belligerent action in the nature of blockade, some other nations, differing from the opinion of the Governments of the United States and Great Britain, have held that to stop the food of the civil population is a natural and legitimate method of bringing pressure to bear on an enemy country, as it is upon the defense of a besieged town. It is also upheld on the authority of both Prince Bismarck and Count Caprivi, and therefore presumably is not repugnant to German morality. The following are the quotations from Prince Bismarck and Count Caprivi on this point. Prince Bismarck, in answering, in 1885, an application from the Kiel Chamber of Commerce for a statement of the view of the German Government on the question of the right to declare as contraband foodstuffs that were not intended for military forces, said: "I reply to the chamber of

commerce that any disadvantage our commercial and carrying interests may suffer by the treatment of rice as contraband of war does not justify our opposing a measure which it has been thought fit to take in carrying on a foreign war. Every war is a calamity which entails evil consequences, not only on the combatants but also on neutrals. These evils may easily be increased, by the interference of a neutral power with the way in which a third carries on the war to the disadvantage of the subjects of the interfering power, and by this means German commerce might be weighted with far heavier losses than a transitory prohibition of the rice trade in Chinese waters. The measure in question has for its object the shortening of the war by increasing the difficulties of the enemy, and is a justifiable step in war if impartially enforced against all neutral ships." Count Caprivi, during a discussion in the German Reichstag on the 4th of March, 1892, on the subject of the importance of international protection for private property at sea, made the following statements: "A country may be dependent for her food or for her raw products upon her trade. In fact, it may be absolutely necessary to destroy the enemy's trade." * * * "The private introduction of provisions into Paris was prohibited during the siege, and in the same way a nation would be justified in preventing the import of food and raw produce." The Government of Great Britain have frankly declared, in concert with the Government of France, their intention to meet the German attempt to stop all supplies of every kind from leaving or entering British or French ports by themselves stopping supplies going to or from Germany for this end. The British fleet has instituted a blockade, effectively controlling by cruiser "cordon" all passage to and from Germany by sea. The difference between the two policies is, however, that while our object is the same as that of Germany, we propose to attain it without sacrificing neutral ships or noncombatant lives or inflicting upon neutrals the damage that must be entailed when a vessel and its cargo are sunk without notice, examination, or trial. I must emphasize again that this measure is a natural and necessary consequence of the unprecedented methods, repugnant to all law and morality, which have been described above, which Germany began to adopt at the very outset of the war, and the effects of which have been constantly accumulating.

PAGE.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,

London, March 15, 1895.

Following is the full text of a note, dated to-day, and an Order in Council I have just received from Grey:

1. His Majesty's Government have had under careful consideration the inquiries which, under instructions from your Government, Your Excellency addressed to me on the eighth instant regarding the scope and mode of application of the measures, foreshadowed in the British and French declarations of the first of March, for restricting the trade of Germany. Your Excellency explained and illustrated by reference to certain contingencies the difficulty of the United States Government in adopting a definite attitude toward these measures by reason of uncertainty regarding their bearing upon the commerce of neutral countries.

2. I can at once assure Your Excellency that subject to the paramount necessity of restricting German trade His Majesty's Government have made it their first aim to minimize inconvenience to neutral commerce. From the accompanying copy of the Order in Council, which is to be published to-day, you will observe that a wide discretion is afforded to the prize court in dealing with the trade of neutrals in such manner as may in the circumstances be deemed just and that full provision is made to facilitate claims by persons interested in any goods placed in the custody of the marshal of the prize court under the Order. I apprehend that the perplexities to which Your Excellency refers will for the most part be dissipated by the perusal of this document and that it is only necessary for me to add certain explanatory observations.

3. The effect of the Order in Council is to confer certain powers upon the executive officers of His Majesty's Government. The extent to which those powers will be actually exercised and the degree of severity with which the measures of blockade authorized will be put into operation, are matters which will depend on the administrative orders issued by the Government and the decisions of the authorities specially charged with the duty of dealing with individual ships and cargoes, according to the merits of each case. The United States Government may rest assured that the instructions to be issued by His Majesty's Government to the fleet and to the customs officials and executive committees concerned will impress upon them the duty of acting with the utmost dispatch consistent with the object in view and of showing in every case such consideration for neutrals as may be compatible with that object which is, succinctly stated, to establish a blockade to prevent vessels from carrying goods for or coming from Germany.

4. His Majesty's Government have felt most reluctant at the moment of initiating a policy of blockade to exact from neutral ships all the penalties attaching to a breach of blockade. In their desire to alleviate the burden which the existence of a state of war at sea must inevitably impose on neutral sea-borne commerce, they declare their intention to refrain altogether from the exercise of the right to confiscate ships or cargoes which belligerents have always claimed in respect to breaches of blockade. They restrict their claim to the stopping of cargoes destined for or coming from the enemy's territory.

5. As regards cotton, full particulars of the arrangements contemplated have already been explained. It will be admitted that every possible regard has been had to the legitimate interests of the American cotton trade.

6. Finally, in reply to the penultimate paragraph of Your Excellency's note, I have the honor to state that it is not intended to interfere with neutral vessels carrying enemy cargo of noncontraband nature outside European waters, including the Mediterranean.

AMERICAN RIGHTS AND BRITISH PRETENSIONS

Ambassador W. H. Page to the Secretary of State.

AMERICAN EMBASSY,

London, March 16, 1915.

SIR: In accordance with the instructions of the department, and confirming my cablegram No. 1780 of the 13th instant, I have the honor to transmit herewith copies, in duplicate, of a proclamation adding to the list of articles to be treated as contraband of war, dated March 11, 1915.

I have, etc.,

WALTER HINES PAGE.

PROCLAMATION.

March 11, 1915.

Adding to the List of Articles to be Treated as Contraband of War.

GEORGE R. I.

Whereas on the twenty-third day of December, 1914, we did issue our royal proclamation specifying the articles which it was our intention to treat as contraband during the continuance of hostilities or until we did give further public notice, and

Whereas it is expedient to make certain additions to the lists contained in the said proclamation:

Now, therefore, we do hereby declare, by and with the advice of our privy council, that during the continuance of the war or until we do give further public notice, the following articles will be treated as absolute contraband in addition to those set out in our royal proclamation aforementioned:

Raw wool, wool tops and noils, and woolen and worsted yarns.

Tin, chloride of tin, tin ore.

Castor oil.

Paraffin wax.

Copper iodide.

Lubricants.

Hides of cattle, buffaloes, and horses; skins of calves, pigs, sheep, goats, and deer; leather, undressed or dressed, suitable for saddlery, harness, military boots, or military clothing.

Ammonia and its salts whether simple or compound; ammonia liquor, urea, aniline, and their compounds.

And we do hereby declare that the following articles will be treated as conditional contraband in addition to those set out in our royal proclamation aforementioned:

Tanning substances of all kinds (including extracts for use in tanning).

And we do hereby further declare that the terms "foodstuffs" and "feeding stuffs for animals" in the list of conditional contraband contained in our royal proclamation aforementioned shall be deemed to include oleaginous seeds, nuts and kernels; animal and vegetable oils and fats (other than linseed oil) suitable for use in the manufacture of margarine; and cakes and meals made from oleaginous seeds, nuts and kernels.

Given at our court at Buckingham Palace, this eleventh day of March, in the year of our Lord one thousand nine hundred and fifteen, etc., etc.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

Washington, March 20, 1915.

Department of State is in receipt of a telegram from the American Minister at Stockholm, as follows:

His Britannic Majesty's Legation has the honor to inform the Royal Swedish Ministry for Foreign Affairs that the American Steamship *Wico* has arrived in the United Kingdom with a full cargo of oil for Krooks Petroleum and Oil Company, Stockholm. In view of the recent seizure by German men of war off Falsterbo of the Steamship *Bryssel* and her cargo of oil His Majesty's Government require to have complete assurances that this vessel will not share the same fate before they can allow her to proceed to destination. His Britannic Majesty's Legation would therefore be much obliged to be furnished with such assurances for immediate communication to the Foreign Office.

Ambassador Page is instructed to inquire of the British Government as to whether the vessel is held for reasons stated in the above telegram, and to state that, in that case, the Government of the United States considers that the vessel should be released at once, in view of the evident fact that the United States Government can not admit the right of the British Government to detain the vessel without any evidence showing that her cargo has an illegal destination, and before a reply has been received to demand made on a nonbelligerent country, which such country is evidently unable to comply with, viz, that it give assurances that the ship while on her way will not be held up by the forces of another belligerent Government.

The Secretary of State to Minister Morris.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 20, 1915.

Mr. Bryan informs Mr. Morris that his telegram under date of March 18, 4 p. m., to the Department, has been communicated to Ambassador Page. Minister Morris is also advised that Ambassador Page has been instructed to make representations to the British Government for the release of the steamer *Wico*.

*The British Ambassador to the Secretary of State.*BRITISH EMBASSY,
Washington, March 23, 1915.

MY DEAR MR. SECRETARY: I beg to acknowledge the receipt of your informal letter of March 20th in which you are good enough to submit certain observations on the British contraband list.

I have not in my possession any further information than that which I have communicated to you, but I expect before long to receive a uniform printed list as revised up to date and I shall take pleasure in sending you a copy so soon as it arrives.

In the list sent to you on March 10 which reached me by post the term "castor oil" was mentioned under the heading of "Principal oils used as lubricants," which were at that time treated as conditional contraband. According to the telegram, of which a copy was sent to you on March 13, "lubricants" were transferred to the list of absolute contraband and castor oil was mentioned separately. Apart from this and in the absence of information to the contrary I understand that the memorandum interpreting the term "lubricants" formerly listed as conditional contraband is to be considered as still interpreting this term as listed under absolute contraband.

The materials enumerated in Articles 11 and 12 of the conditional contraband list appear, as you suggest, to have been transferred to the absolute list, but I am unable at the present moment to state definitely that this is so.

I am taking steps to obtain a clear ruling on these points.

I am, etc.,

CECIL SPRING-RICE.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 30, 1915.

You are instructed to deliver the following to His Majesty's Government in reply to your numbers 1795 and 1798 of March 15:

The Government of the United States has given careful consideration to the subjects treated in the British notes of March 13 and March 15, and to the British Order in Council of the latter date.

These communications contain matters of grave importance to neutral nations. They appear to menace their rights of trade and intercourse not only with belligerents but also with one another. They call for frank comment in order that misunderstandings may be avoided. The Government of the United States deems it its duty, therefore, speaking in the sincerest spirit of friendship, to make its own view and position with regard to them unmistakably clear.

The Order in Council of the 15th of March would constitute, were its provisions to be actually carried into effect as they stand, a practical assertion of unlimited belligerent rights over neutral commerce within the whole European area, and an almost unqualified denial of the sovereign rights of the nations now at peace.

This Government takes it for granted that there can be no question what those rights are. A nation's sovereignty over its own ships and citizens under its own flag on the high seas in time of peace is, of course, unlimited; and that sovereignty suffers no diminution in time of war, except in so far as the practice and consent of civilized nations has limited it by the recognition of certain now clearly determined rights, which it is conceded may be exercised by nations which are at war.

A belligerent nation has been conceded the right of visit and search, and the right of capture and condemnation, if upon examination a neutral vessel is found to be engaged in unneutral service or to be carrying contraband of war intended for the enemy's government or armed forces. It has been conceded the right to establish and maintain a blockade of an enemy's ports and coasts and to capture and condemn any vessel taken in trying to break the blockade. It is even conceded the right to detain and take to its own ports for judicial examination all vessels which it suspects for substantial reasons to be engaged in unneutral or contraband service and to condemn them if the suspicion is sustained. But such rights, long clearly defined both in doctrine and practice, have hitherto been held to be the only permissible exceptions to the principle of universal equality of sovereignty on the high seas as between belligerents and nations not engaged in war.

It is confidently assumed that His Majesty's Government will not deny that it is a rule sanctioned by general practice that, even though a blockade should exist and the doctrine of contraband as to unblockaded territory be rigidly enforced, innocent shipments may be freely transported to and from the United States through neutral countries to belligerent territory without being subject to the penalties of contraband traffic or breach of blockade, much less to detention, requisition, or confiscation.

Moreover the rules of the Declaration of Paris of 1856—among them that free ships make free goods—will hardly at this day be disputed by the signatories of that solemn agreement.

His Majesty's Government, like the Government of the United States, have often and explicitly held that these rights represent the best usage of warfare in the dealings of belligerents with neutrals at sea. In this connection I desire to direct attention to the opinion of the Chief Justice of the United States in the case of the *Peterhof*, which arose out of the Civil War, and to the fact that that opinion was unanimously sustained in the award of the Arbitration Commission of 1871, to which the case was presented at the request of Great Britain. From that time to the Declaration of London of 1909, adopted with modifications by the Order in Council of the 23d of October last, these rights have not been seriously questioned by the British Government. And no claim on the part of Great Britain of any justification for interfering with these clear rights of the United States and its citizens as neutrals could be admitted. To admit it would be to assume an attitude of unneutrality toward the present enemies of Great Britain which would be obviously inconsistent with the solemn obligations of this Government in the present circumstances; and for Great Britain to make such a claim would be for her to abandon and set at naught the principles for which she has consistently and earnestly contended in other times and circumstances.

The note of His Majesty's Principal Secretary of State for Foreign Affairs which accompanies the Order in Council, and which bears the same date, notifies the Government of the United States of the establishment of a blockade which is, if defined by the terms of the Order in Council, to include all the coasts and ports of Germany and every port of possible access to enemy territory. But the novel and quite unprecedented feature of that blockade, if we are to assume it to be properly so defined, is that it embraces many neutral ports and coasts, bars access to them, and subjects all neutral ships seeking to approach them to the same suspicion that would attach to them were they bound for the ports of the enemies of Great Britain, and to unusual risks and penalties.

It is manifest that such limitations, risks, and liabilities placed upon the ships of a neutral power on the high seas, beyond the right of visit and search and the right to prevent the shipment of contraband already referred to, are a distinct invasion of the sovereign rights of the nation whose ships, trade, or commerce is interfered with.

The Government of the United States is, of course, not oblivious to the great changes which have occurred in the conditions and means of naval warfare since the rules hitherto governing legal blockade were formulated. It might be ready to admit that the old form of "close" blockade with its cordon of ships in the immediate offing of the blockaded ports is no longer practicable in face of an enemy possessing the means and opportunity to make an effective defense by the use of submarines, mines, and air craft; but it can hardly be maintained that, whatever form of effective blockade may be made use of, it is impossible to conform at least to the spirit and principles of the established rules of war. If the necessities of the case should seem to render it imperative that the cordon of blockading vessels be extended across the approaches to any neighboring neutral port or country, it would seem clear that it would still be easily practicable to comply with the well-recognized and reasonable prohibition of international law against the blockading of neutral ports by according free admission and exit to all lawful traffic with neutral ports through the blockading cordon. This traffic would of course include all outward-bound traffic from the neutral country and all inward-bound traffic to the neutral coun-

try except contraband in transit to the enemy. Such procedure need not conflict in any respect with the rights of the belligerent maintaining the blockade since the right would remain with the blockading vessels to visit and search all ships either entering or leaving the neutral territory which they were in fact, but not of right, investing.

The Government of the United States notes that in the Order in Council His Majesty's Government give as their reason for entering upon a course of action, which they are aware is without precedent in modern warfare, the necessity they conceive themselves to have been placed under to retaliate upon their enemies for measures of a similar nature which the latter have announced it their intention to adopt and which they have to some extent adopted; but the Government of the United States, recalling the principles upon which His Majesty's Government have hitherto been scrupulous to act, interprets this as merely a reason for certain extraordinary activities on the part of His Majesty's naval forces and not as an excuse for or prelude to any unlawful action. If the course pursued by the present enemies of Great Britain should prove to be in fact tainted by illegality and disregard of the principles of war sanctioned by enlightened nations, it can not be supposed, and this Government does not for a moment suppose, that His Majesty's Government would wish the same taint to attach to their own actions or would cite such illegal acts as in any sense or degree a justification for similar practices on their part in so far as they affect neutral rights.

It is thus that the Government of the United States interprets the language of the note of His Majesty's Principal Secretary of State for Foreign Affairs which accompanies the copy of the Order in Council which was handed to the Ambassador of the United States near the Government in London and by him transmitted to Washington.

This Government notes with gratification that "wide discretion is afforded to the prize court in dealing with the trade of neutrals in such manner as may in the circumstances be deemed just, and that full provision is made to facilitate claims by persons interested in any goods placed in the custody of the marshal of the prize court under the order"; that "the effect of the Order in Council is to confer certain powers upon the executive officers of His Majesty's Government"; and that "the extent to which these powers will be actually exercised and the degree of severity with which the measures of blockade authorized will be put into operation are matters which will depend on the administrative orders issued by the Government and the decisions of the authorities especially charged with the duty of dealing with individual ships and cargoes according to the merits of each case." This Government further notes with equal satisfaction the declaration of the British Government that "the instructions to be issued by His Majesty's Government to the fleet and to the customs officials and executive committees concerned will impress upon them the duty of acting with the utmost dispatch consistent with the object in view, and of showing in every case such consideration for neutrals as may be compatible with that object, which is, succinctly stated, to establish a blockade to prevent vessels from carrying goods for or coming from Germany."

In view of these assurances formally given to this Government, it is confidently expected that the extensive powers conferred by the Order in Council on the executive officers of the Crown will be restricted by "orders issued by the Government" directing the exercise of their discretionary powers in such a manner as to modify in practical application those provisions of the Order in Council which, if strictly enforced, would violate neutral rights and interrupt legitimate trade. Relying on the faithful performance of these voluntary assurances by His Majesty's Government the United States takes it for granted that the approach of American merchantmen to neutral ports situated upon the long line of coast affected by the Order in Council will not be interfered with when it is known that they do not carry goods which are contraband of war or goods destined to or proceeding from ports within the belligerent territory affected.

The Government of the United States assumes with the greater confidence that His Majesty's Government will thus adjust their practice to the recognized rules of international law, because it is manifest that the British Government have adopted an extraordinary method of "stopping cargoes destined for or coming from the enemy's territory," which, owing to the existence of unusual conditions in modern warfare at sea, it will be difficult to restrict to the limits which have been heretofore required by the law of nations. Though the area of operations is confined to "European waters including the Mediterranean," so great an area of the high seas is covered and the cordon of ships is so distant from the territory affected that neutral vessels must necessarily pass through the blockading force in order to reach important neutral ports which Great Britain as a belligerent has not the legal right to blockade and which, therefore, it is presumed she has no intention of claiming to blockade. The Scandinavian and Danish ports, for example, are open to American trade. They are also free, so far as the actual enforcement of the Order in Council is concerned, to carry on trade with German Baltic ports although it is an essential element of blockade that it bear with equal severity upon all neutrals.

This Government, therefore, infers that the commanders of His Majesty's ships of war engaged in maintaining the so-called blockade will be instructed to avoid an enforcement of the proposed measures of nonintercourse in such a way as to impose restrictions upon neutral trade more burdensome than those which have been regarded as inevitable when the ports of a belligerent are actually blockaded by the ships of its enemy.

The possibilities of serious interruption of American trade under the Order in Council are so many, and the methods proposed are so unusual and seem liable to constitute so great an impediment and embarrassment to neutral commerce that the Government of the United States, if the Order in Council is strictly enforced, apprehends many interferences with its legitimate trade which will impose upon His Majesty's Government heavy responsibilities for acts of the British authorities clearly subversive of the rights of neutral nations on the high seas. It is therefore, expected that His Majesty's Government, having considered these possibilities, will take the steps necessary to avoid them, and, in the event that they should unhappily occur, will be prepared to make full reparation for every act which under the rules of international law constitutes a violation of neutral rights.

As stated in its communication of October 22, 1914, "this Government will insist that the rights and duties of the United States and its citizens in the present war be defined by the existing rules of international law and the treaties of the United States, irrespective of the provisions of the Declaration of London, and that this Government reserves to itself the right to enter a protest or demand in each case in which those rights and duties so defined are violated or their free exercise interfered with, by the authorities of the British Government."

In conclusion you will reiterate to His Majesty's Government that this statement of the views of the Government of the United States is made in the most friendly spirit, and in accordance with the uniform candor which has characterized the relations of the two Governments in the past, and which has been in large measure the foundation of the peace and amity existing between the two nations without interruption for a century.

BRYAN.

The German Ambassador to the Secretary of State.

[Translation.]

IMPERIAL GERMAN EMBASSY,

Washington, April 4, 1915.

MR. SECRETARY OF STATE: I have the honor to deliver to Your Excellency the inclosed memorandum on German-American trade and the question of delivery of arms. Accept, etc.,

J. BERNSTORFF.

[Inclosure—Translation.]

MEMORANDUM.

IMPERIAL GERMAN EMBASSY,

Washington, D. C., April 4, 1915.

The various British Orders in Council have one-sidedly modified the generally recognized principles of international law in a way which arbitrarily stops the commerce of neutral nations with Germany. Even before the last British Order in Council, the shipment of conditional contraband, especially food supplies, to Germany was practically impossible. Prior to the protest sent by the American to the British Government on December 28 last, such a shipment did not actually take place in a single case. Even after this protest the Imperial Embassy knows of only a single case in which an American shipper has ventured to make such a shipment for the purpose of legitimate sale to Germany. Both ship and cargo were immediately seized by the English and are being held in an English port under the pretext of an order of the German Federal Council (Bundesrat) regarding the grain trade, although this resolution of the Federal Council relates exclusively to grain and flour, and not to other foodstuffs, besides making an express exception with respect to imported foodstuffs, and although the German Government gave the American Government an assurance, and proposed a special organization whereby the exclusive consumption by the civilian population is absolutely guaranteed.

Under the circumstances the seizure of the American ship was inadmissible according to recognized principles of international law. Nevertheless the United States Government has not to date secured the release of the ship and cargo, and has not, after a duration of the war of eight months, succeeded in protecting its lawful trade with Germany.

Such a long delay, especially in matters of food supply, is equivalent to an entire denial.

The Imperial Embassy must therefore assume that the United States Government acquiesces in the violations of international law by Great Britain.

Then there is also the attitude of the United States in the question of the exportation of arms. The Imperial Government feels sure that the United States Government will agree that in questions of neutrality it is necessary to take into consideration not only the formal aspect of the case, but also the spirit in which the neutrality is carried out.

The situation in the present war differs from that of any previous war. Therefore any reference to arms furnished by Germany in former wars is not justified, for then it was not a question *whether* war material should be supplied to the belligerents, but *who* should supply it in competition with other nations. In the present war all nations having a war material industry worth mentioning are either involved in the war themselves or are engaged in perfecting their own armaments, and have therefore laid an embargo against the exportation of war material. The United States is accordingly the only neutral country in a position to furnish war materials. The conception of neutrality is thereby given a new purport, independently of the formal question of hitherto existing law. In contradiction thereto, the United States is building up a powerful arms industry in the broadest sense, the existing plants not only being worked but enlarged by all available means, and new ones built. The international conventions for the protection of the rights of neutral nations doubtless sprang from the necessity of protecting the existing industries of neutral nations as far as possible from injury in their business. But it can in no event be in accordance with the spirit of true neutrality if, under the protection of such international stipulations, an entirely new industry is created in a neutral state, such as is the development of the arms industry in the United States, the business whereof, under the present conditions, can benefit only the belligerent powers.

This industry is actually delivering goods only to the enemies of Germany. The theoretical willingness to supply Germany also if shipments thither were possible, does not alter the case. If it is the will of the American people that there shall be a true neutrality, the United States will find means of preventing this one-sided supply of arms or at least of utilizing it to protect legitimate trade with Germany, especially that in foodstuffs. This view of neutrality should all the more appeal to the United States Government because the latter enacted a similar policy toward Mexico. On February 4, 1914, President Wilson, according to a statement of a Representative in Congress in the Committee for Foreign Affairs of December 30, 1914, upon the lifting of the embargo on arms to Mexico, declared that "we should stand for genuine neutrality, considering the surrounding facts of the case * * *." He then held that "in that case, because Carranza had no ports, while Huerta had them and was able to import these materials, that it was our duty as a nation to treat (Carranza and Huerta) upon an equality if we wished to observe the true spirit of neutrality as compared with a mere paper neutrality."

If this view were applied to the present case, it would lead to an embargo on the exportation of arms.

Consul General Skinner to the Secretary of State.

[Extract.]

AMERICAN CONSULATE GENERAL,
London, April 7, 1915.

SIR: Referring to my telegram dated March 31st setting forth that under an unproclaimed Order in Council dated March 23d it was proposed to requisition the cargo of the *Wilhelmina*, I have the honor to enclose herewith a full copy of the Order in question.

I have, etc.,

ROBERT P. SKINNER.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, April 8, 1915.

Your 1296, March 20, regarding *Wico*.

Foreign Office replies to my representations in the premises stating that it has been decided in this case to permit this vessel to proceed to her destination, and instructions in that sense have already been issued. It is further stated that it is desired to

point out that British Government feels that in event of further cargoes going to Stockholm being seized by German ships, the whole question of permitting oil cargoes to proceed to that destination will have to be seriously reconsidered.

PAGE.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,

London, April 8, 1915.

The Prime Minister has just handed me the following, which I have communicated to Hayes and Brooking, who strongly recommend its acceptance by their principals:

His Majesty's Government share the desire of the United States Government for an immediate settlement of the case of the *Wilhelmina*. This American ship laden with foodstuffs left New York for Hamburg on January 22nd. She called at Falmouth of her own accord on February 9th and her cargo was detained as prize on February 11th. The writ instituting prize court proceedings was issued on February 27th, and claimed that the cargo should be condemned as contraband of war. No proceedings were taken or even threatened against the ship herself, and in the ordinary course the cargo would have been unloaded when seized so that the ship would be free to leave. The owners of the cargo, however, have throughout objected to the discharge of the cargo and it is because of this objection that the ship is still at Falmouth with the cargo on board.

His Majesty's Government have formally undertaken that even should the condemnation of the cargo as contraband be secured in the prize court they would none the less compensate the owners for any loss sustained in consequence of the ship having been stopped and proceedings taken against the cargo.

It was understood at the time that the proceedings in the prize court would be in the nature of a test case, the decision in which would govern the treatment of any subsequent shipments of food supplies to Germany in similar circumstances. Since then the situation has, however, materially changed by the issue of the Order in Council of March 11, 1915, and the measures taken thereunder which prevent further supplies being sent from America to Germany, whether contraband or not.

In these circumstances there is no longer any object in continuing the judicial proceedings in the case of the *Wilhelmina*; for it can no longer serve as a test case, and it is really agreed that the owners of the cargo, even if proved to have no claim, are to be treated as if their claim was good. Nothing therefore remains but to settle the claim on proper and just conditions, and this would, in the opinion of His Majesty's Government, be secured most expeditiously and with the least inconvenience to all parties by an agreement between the Crown and the claimants for the disposal of the whole matter. His Majesty's Government accordingly propose that such an agreement be arrived at on the following terms: "His Majesty's Government having undertaken to compensate the claimants by paying for the cargo seized on the basis of the loss of the profit the claimants would have made if the ship had proceeded in due course to Hamburg, and by indemnifying them for the delay caused to the ship so far as this delay has been due to the action of the British authorities, all proceedings in the prize court shall be stayed, on the understanding that His Majesty's Government buy the cargo from the claimants on the above terms. The cargo shall be discharged and delivered to the proper officer of the Crown forthwith. The sum to be paid shall be assessed by a single referee nominated jointly by the ambassador of the United States of America and His Majesty's principal secretary of state for foreign affairs, who shall certify the total amount after making such inquiries as he may think fit, but without formal hearing or arbitration." His Majesty's Government would be grateful if the United States ambassador would inform the claimants of the above proposal at his early convenience and obtain their acceptance.

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase—Extract.]

DEPARTMENT OF STATE,

Washington, April 9, 1915.

Your 1889, 6th.

Ambassador Page is instructed to inform the Foreign Office that this Government, on behalf of the owners of the *Seguranca*, objects to its detention, as the shipper's manifest shows that the entire cargo was consigned to named consignees in Holland and is accompanied by a certificate of the British Consul General at New York; the loading of the vessel having, moreover, been supervised by said Consul General's inspector, and the vessel containing no cargo except what is specified in the manifest. The Ambassador is further instructed to advise the Foreign Office that this Government will support claims of owners of the vessel and cargo for damages for detention, as this Government does not admit the right of British Government to require that this cargo be reconsigned to the Netherlands Oversea Trust.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, April 10, 1915.

MY DEAR MR. SECRETARY: With further reference to your letter of the 20th of March I am informed that the interpretation of lubricants now absolute contraband is as follows:

Mineral. Including mineral oils, jellies or greases of all kinds, pure or compounded; graphite, natural or artificial;

Vegetable. Including vegetable lubricating oils and fats of all kinds, and resin greases, and their mixtures;

Animal. Including all animal oils and fats for use as lubricants, and their mixtures;

Fish. Including whale oil (train, blubber, sperm), seal or shark oil, and fish oil generally;

Mixtures or compounds of any of the foregoing.

It will be observed that the above definition covers all the articles mentioned in the earlier list of lubricants sent to your Department on March 10 and that it is even more comprehensive inasmuch as it includes mixtures and compounds of these articles.

The whole of the "hides" heading (Article 12) in the conditional list of December 23, 1914, may be regarded as transferred to the list of absolute contraband. Harness and saddlery (Article 11) remain conditional contraband unless it falls within Article 10 of the absolute list of December 23.

I am, etc.

CECIL SPRING-RICE.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 12, 1915.

You will say to British Government, in replying to its statement regarding release steamer *Wico*, that this Government considers that any seizure of American cargoes which might be made by the German authorities would be a matter which should be adjusted between the Government of the United States and the German Government, and further say that the Government of the United States does not perceive that any such action on the part of the German authorities could afford justification for seizures of American cargoes by the British authorities.

BRYAN.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, April 21, 1915.

EXCELLENCY: I have given thoughtful consideration to your Excellency's note of the 4th of April, 1915, enclosing a memorandum of the same date, in which Your Excellency discusses the action of this Government with regard to trade between the United States and Germany and the attitude of this Government with regard to the exportation of arms from the United States to the nations now at war with Germany.

I must admit that I am somewhat at a loss how to interpret Your Excellency's treatment of these matters. There are many circumstances connected with these important subjects to which I would have expected Your Excellency to advert, but of which you make no mention, and there are other circumstances to which you do refer which I would have supposed to be hardly appropriate for discussion between the Government of the United States and the Government of Germany.

I shall take the liberty, therefore, of regarding Your Excellency's references to the course pursued by the Government of the United States with regard to interferences with trade from this country, such as the Government of Great Britain have attempted, as intended merely to illustrate more fully the situation to which you desire to call our attention and not as an invitation to discuss that course. Your Excellency's long experience in international affairs will have suggested to you that the relations of the two Governments with one another can not wisely be made a subject of discussion with a third Government, which can not be fully informed as to the facts and which can not be fully cognizant of the reasons for the course pursued. I believe, however, that I am justified in assuming that what you desire to call forth is a frank statement of the position of this Government in regard to its obligations as a neutral power. The general attitude and course of policy of this Government in the maintenance of its neutrality I am particularly anxious that Your Excellency should see in their true light. I had hoped

that this Government's position in these respects had been made abundantly clear, but I am of course perfectly willing to state it again. This seems to me the more necessary and desirable because, I regret to say, the language which Your Excellency employs in your memorandum is susceptible of being construed as impugning the good faith of the United States in the performance of its duties as a neutral. I take it for granted that no such implication was intended, but it is so evident that Your Excellency is laboring under certain false impressions that I can not be too explicit in setting forth the facts as they are, when fully reviewed and comprehended.

In the first place, this Government has at no time and in no manner yielded any one of its rights as a neutral to any of the present belligerents. It has acknowledged, as a matter of course, the right of visit and search and the right to apply the rules of contraband of war to articles of commerce. It has, indeed, insisted upon the use of visit and search as an absolutely necessary safeguard against mistaking neutral vessels for vessels owned by an enemy and against mistaking legal cargoes for illegal. It has admitted also the right of blockade if actually exercised and effectively maintained. These are merely the well-known limitations which war places upon neutral commerce on the high seas. But nothing beyond these has it conceded. I call Your Excellency's attention to this, notwithstanding it is already known to all the world as a consequence of the publication of our correspondence in regard to these matters with several of the belligerent nations, because I can not assume that you have official cognizance of it.

In the second place, this Government attempted to secure from the German and British Governments mutual concessions with regard to the measures those Governments respectively adopted for the interruption of trade on the high seas. This it did, not of right, but merely as exercising the privileges of a sincere friend of both parties and as indicating its impartial good will. The attempt was unsuccessful; but I regret that Your Excellency did not deem it worthy of mention in modification of the impressions you expressed. We had hoped that this act on our part had shown our spirit in these times of distressing war as our diplomatic correspondence had shown our steadfast refusal to acknowledge the right of any belligerent to alter the accepted rules of war at sea in so far as they affect the rights and interests of neutrals.

In the third place, I note with sincere regret that, in discussing the sale and exportation of arms by citizens of the United States to the enemies of Germany, Your Excellency seems to be under the impression that it was within the choice of the Government of the United States, notwithstanding its professed neutrality and its diligent efforts to maintain it in other particulars, to inhibit this trade, and that its failure to do so manifested an unfair attitude toward Germany. This Government holds, as I believe Your Excellency is aware, and as it is constrained to hold in view of the present indisputable doctrines of accepted international law, that any change in its own laws of neutrality during the progress of a war which would affect unequally the relations of the United States with the nations at war would be an unjustifiable departure from the principles of strict neutrality by which it has consistently sought to direct its actions, and I respectfully submit that none of the circumstances urged in Your Excellency's memorandum alters the principle involved. The placing of an embargo on the trade in arms at the present time would constitute such a change and be a direct violation of the neutrality of the United States. It will, I feel assured, be clear to Your Excellency that, holding this view and considering itself in honor bound by it, it is out of the question for this Government to consider such a course.

I hope that Your Excellency will realize the spirit in which I am drafting this reply. The friendship between the people of the United States and the people of Germany is so warm and of such long standing, the ties which bind them to one another in amity are so many and so strong, that this Government feels under a special compulsion to speak with perfect frankness when any occasion arises which seems likely to create any misunderstanding, however slight or temporary, between those who represent the Governments of the two countries. It will be a matter of gratification to me if I have removed from Your Excellency's mind any misapprehension you may have been under regarding either the policy or the spirit and purposes of the Government of the United States. Its neutrality is founded upon the firm basis of conscience and good will.

Accept, etc.,

W. J. BRYAN.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, April 26, 1915.

SIR: With reference to my telegram No. 2097, dated April 21, 1915, I have the honor to transmit to you herewith five copies of Reichsgesetzblatt, 1915, No. 49, with translation, containing the modifications and amendments of the German prize ordinance recently promulgated.

I have, etc.,

JAMES W. GERARD.

[Translation.]

Ordinance relative to amendments of the prize ordinance of September 30, 1909.

In retaliation of the regulations adopted by England and her allies, deviating from the London declaration of maritime law of February 26, 1909, I approve of the following amendments of the prize ordinance of September 30, 1909, and of its supplements, dated October 18, November 23, and December 14, 1914, for the period of the present war.

Articles 21, 23, 27, 33, 35, 40, and the additions to Article 23 shall be replaced by the following provisions:

ARTICLE 21. The following articles and materials, designated absolute contraband, shall be considered contraband of war:

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
2. Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
3. Powder and explosives of all kinds.
4. Cannon barrels, gun mountings, limber boxes, limbers, field kitchens and bakeries, supply wagons, field forges, searchlights and searchlight accessories, and their distinctive component parts.
5. Range finders and their distinctive component parts.
6. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.
7. Clothing and equipment of a distinctively military character.
8. Saddle, draft, and pack animals suitable for use in war.
9. All kinds of harness of a distinctively military character.
10. Articles of camp equipment and their distinctive component parts.
11. Armor plates.
12. Lead, pig, sheet, or pipe.
13. Barbed wire, and implements for fixing and cutting the same.
14. Tinplate.
15. Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war; ship plates and construction steel.
16. Submarine sound signaling apparatus.
17. Aeroplanes, airships, balloons, and aircraft of all kinds, and their distinctive component parts, together with accessories, articles and materials, recognizable as intended for use in connection with balloons and aircraft.
18. Implements and devices designed exclusively for the manufacture and repair of arms and munitions of war.
19. Lathes of all kinds.
20. Mining lumber.
21. Coal and coke.
22. Flax.

ARTICLE 23. The following articles and materials suitable for warlike as well as for peaceful purposes, coming under the designation of conditional contraband, shall be considered as contraband of war:

1. Foodstuffs.
 2. Forage and all kinds of feeding stuffs.
 3. Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.
 4. Wool from animals, raw or dressed, together with woolen carded yarns, and worsted yarns.
 5. Gold and silver, in coin or bullion; paper money.
 6. Vehicles of all kinds, especially all motor vehicles available for use in war, and their component parts.
 7. Rubber tires for motor vehicles, together with all articles or materials especially used in the manufacture or repair of rubber tires.
 8. Rubber and gutta-percha, together with goods made thereof.
 9. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
 10. Fuel, excepting coal and coke; lubricants.
 11. Sulphur, sulphuric acid, nitric acid.
 12. Horseshoes and shoeing materials.
 13. The following ores: Wolframite, scheelite, molybdenite, nickel ore, chrome ore, hæmatite iron ore, manganese ore, lead ore.
 14. The following metals: Wolfram, molybdenum, vanadium, nickel, selenium, cobalt, hæmatite pig iron, manganese, aluminium, copper.
 15. Antimony, together with the sulphides and oxides of antimony.
 16. Ferro alloys, including ferrowolfram, ferromolybdenum, ferromanganese, ferrovanadium, ferrochrome.
 17. Harness and saddlery.
 18. Leather, treated and untreated, when suitable for saddlery, harness, military boots or military clothing.
 19. Tanning materials of all kinds, including extracts used in tanning.
 20. All kinds of lumber, rough or treated, especially hewn, sawed, planed, fluted, excepting mining lumber tar or charcoal.
 21. Vessels, craft, and boats of all kinds, floating docks, parts of docks, and their component parts.
- The following articles cannot be declared contraband of war:
1. Raw cotton, raw silk, raw jute, raw hemp.
 2. Resin, larks, hops.
 3. Raw skins, horns, bones, and ivory.
 4. Natural and artificial fertilizers.
 5. Earth, clay, lime, chalk; stones, including marble; bricks, slates, and roofing tiles.
 6. Porcelain and glass.
 7. Paper, and the materials prepared for its manufacture.
 8. Soap; paints, including the materials exclusively used for their manufacture, and varnish.

9. Chloride of lime, soda, caustic soda, sulphate of soda in cakes, ammonia, sulphate of ammonia, and copper sulphate.
10. Machines for agriculture, for mining, for the textile industry, and for printing.
11. Precious stones, fine stones, pearls, mother-of-pearl, and corals.
12. Clocks, standing clocks and watches, excepting chronometers.
13. Fashion and fancy goods.
14. Feathers of all kinds, hair and bristles.
15. Furniture and decorative articles, office furniture and requirements.

ARTICLE 33. In the absence of conditions to the contrary, the hostile destination referred to in article 32 is to be presumed when (A) the goods are consigned to an enemy authority or the agent of such or to a dealer shown to have supplied articles of the kind in question or products thereof to the armed forces or the administrative authorities of the enemy state; (B) the goods are consigned to order or the ship's papers do not show who is the consignee or the goods are consigned to a person in territory belonging to or occupied by the enemy; (C) the goods are destined for an armed place of the enemy or a place serving as a base of operations or supplies to the armed forces of the enemy.

Merchant vessels themselves are not to be considered as destined for the armed forces or the administrative authorities of the enemy solely for the reason that they are found en route to one of the places referred to under letter C.

ARTICLE 35. Articles of conditional contraband are liable to seizure only on a vessel en route to territory belonging to or occupied by the enemy or to the armed forces of the enemy, and such vessel is not intended to unload these articles in an intermediate neutral port—that is to say, in a port at which the vessel is to call previous to reaching the ultimate destination designated.

This paragraph shall not apply if the conditions provided in article 33, letter B, are present or if the vessel is bound for a neutral country with regard to which it is shown that the enemy government draws articles of the kind in question from that country.

ARTICLE 40. A vessel cannot be captured on the ground of an already completed voyage carrying contraband. If, however, the vessel carried contraband to the enemy contrary to the indications of the ship's papers, it shall be liable to capture and condemnation until the end of the war.

This ordinance shall take effect the day of its promulgation.

Chief Headquarters, April 18, 1915.

[L. S.]

(Signed)

WILHELM.
V. TIRPITZ.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, April 28, 1915.

Your 1471, 26th.

Replying to my representations of 17th instant Foreign Office advises me as follows:

The steamship *Seguranca* was allowed to proceed on April 22, all the consignees having agreed to receive their goods through the Netherlands Oversea Trust.

While His Majesty's Government do not "require" cargoes to be consigned to the Netherlands Oversea Trust, they do accept a consignment in that form as proof that the cargo is intended for *bona fide* consumption in Holland, and they find by experience that no objection to that course is raised by reputable shippers and consignees.

As this practice has greatly facilitated and expedited the release of vessels bound for Dutch ports when brought in or calling for examination, it is hoped that the United States Government will not do anything to interfere with its smooth working in the future.

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 6, 1915.

Ambassador Page is instructed to inform the Foreign Office that the owners of the *Seguranca* advise the Department that though the British Consul General supervised the loading of the vessel, he failed to advise them of the practice of consigning shipments to the Netherlands Oversea Trust, and that if the British Government desires the practice followed as a matter of convenience, it should bring the same to the knowledge of shippers.

Ambassador Page is also instructed to inform the Foreign Office that the United States Government does not object to the consignment of American shipments to the Netherlands Oversea Trust, provided the plan be voluntarily acquiesced in by the shippers, but that it does object to the holding up by British Government of noncontraband cargoes until reconsigned to Netherlands Oversea Trust, and maintains also that shipments consigned to other consignees in Holland have the same legal status as those con-

signed to Netherlands Oversea Trust; that the United States Government finds no legal justification for the detention of noncontraband cargoes and that in the circumstances of this case the burden of proof is not on shipper to establish the noncontraband character, but is on the British Government to show contraband character of shipments.

The Secretary of State to Ambassador Gerard.

DEPARTMENT OF STATE,
Washington, May 13, 1915.

Please call on the Minister of Foreign Affairs and after reading to him this communication leave with him a copy.

In view of recent acts of the German authorities in violation of American rights on the high seas which culminated in the torpedoing and sinking of the British steamship *Lusitania* on May 7, 1915, by which over 100 American citizens lost their lives, it is clearly wise and desirable that the Government of the United States and the Imperial German Government should come to a clear and full understanding as to the grave situation which has resulted.

The sinking of the British passenger steamer *Falaba* by a German submarine on March 28, through which Leon C. Thrasher, an American citizen, was drowned; the attack on April 28 on the American vessel *Cushing* by a German aeroplane; the torpedoing on May 1 of the American vessel *Gulflight* by a German submarine, as a result of which two or more American citizens met their death; and, finally, the torpedoing and sinking of the steamship *Lusitania*, constitute a series of events which the Government of the United States has observed with growing concern, distress, and amazement.

Recalling the humane and enlightened attitude hitherto assumed by the Imperial German Government in matters of international right, and particularly with regard to the freedom of the seas; having learned to recognize the German views and the German influence in the field of international obligation as always engaged upon the side of justice and humanity; and having understood the instructions of the Imperial German Government to its naval commanders to be upon the same plane of humane action prescribed by the naval codes of other nations, the Government of the United States was loath to believe—it can not now bring itself to believe—that these acts, so absolutely contrary to the rules, the practices, and the spirit of modern warfare, could have the countenance or sanction of that great Government. It feels it to be its duty, therefore, to address the Imperial German Government concerning them with the utmost frankness and in the earnest hope that it is not mistaken in expecting action on the part of the Imperial German Government which will correct the unfortunate impressions which have been created and vindicate once more the position of that Government with regard to the sacred freedom of the seas.

The Government of the United States has been apprised that the Imperial German Government considered themselves to be obliged by the extraordinary circumstances of the present war and the measures adopted by their adversaries in seeking to cut Germany off from all commerce, to adopt methods of retaliation which go much beyond the ordinary methods of warfare at sea, in the proclamation of a war zone from which they have warned neutral ships to keep away. This Government has already taken occasion to inform the Imperial German Government that it can not admit the adoption of such measures or such a warning of danger to operate as in any degree an abbreviation of the rights of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality; and that it must hold the Imperial German Government to a strict accountability for any infringement of those rights, intentional or incidental. It does not understand the Imperial German Government to question those rights. It assumes, on the contrary, that the Imperial Government accept, as of course, the rule that the lives of noncombatants, whether they be of neutral citizenship or citizens of one of the nations at war, can not lawfully or rightfully be put in jeopardy by the capture or destruction of an unarmed merchantman, and recognize also, as all other nations do, the obligation to take the usual precaution of visit and search to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag.

The Government of the United States, therefore, desires to call the attention of the Imperial German Government with the utmost earnestness to the fact that the objection to their present method of attack against the trade of their enemies lies in the practical impossibility of employing submarines in the destruction of commerce without disregarding those rules of fairness, reason, justice, and humanity, which all modern opinion regards as imperative. It is practically impossible for officers of a submarine to visit a merchantman at sea and examine her papers and cargo. It is practically impossible for

them to make a prize of her; and, if they can not put a prize crew on board of her, they can not sink her without leaving her crew and all on board of her to the mercy of the sea in her small boats. These facts it is understood the Imperial German Government frankly admit. We are informed that in the instances of which we have spoken time enough for even that poor measure of safety was not given, and in at least two of the cases cited not so much as a warning was received. Manifestly submarines can not be used against merchantmen, as the last few weeks have shown, without an inevitable violation of many sacred principles of justice and humanity.

American citizens act within their indisputable rights in taking their ships and in traveling wherever their legitimate business calls them upon the high seas, and exercise those rights in what should be the well-justified confidence that their lives will not be endangered by acts done in clear violation of universally acknowledged international obligations, and certainly in the confidence that their own Government will sustain them in the exercise of their rights.

There was recently published in the newspapers of the United States, I regret to inform the Imperial German Government, a formal warning, purporting to come from the Imperial German Embassy at Washington, addressed to the people of the United States, and stating, in effect, that any citizen of the United States who exercised his right of free travel upon the seas would do so at his peril if his journey should take him within the zone of waters within which the Imperial German Navy was using submarines against the commerce of Great Britain and France, notwithstanding the respectful but very earnest protest of his Government, the Government of the United States. I do not refer to this for the purpose of calling the attention of the Imperial German Government at this time to the surprisingly irregularity of a communication from the Imperial German Embassy at Washington, addressed to the people of the United States through the newspapers, but only for the purpose of pointing out that no warning that an unlawful and inhumane act will be committed can possibly be accepted as an excuse or palliation for that act or as an abatement of the responsibility for its commission.

Long acquainted as this Government has been with the character of the Imperial German Government and with the high principles of equity by which they have in the past been actuated and guided, the Government of the United States can not believe that the commanders of the vessels which committed these acts of lawlessness did so except under a misapprehension of the orders issued by the Imperial German naval authorities. It takes it for granted that, at least within the practical possibilities of every such case, the commanders even of submarines were expected to do nothing that would involve the lives of noncombatants or the safety of neutral ships, even at the cost of failing of their object of capture or destruction. It confidently expects, therefore, that the Imperial German Government will disavow the acts of which the Government of the United States complains, that they will make reparation so far as reparation is possible for injuries which are without measure, and that they will take immediate steps to prevent the recurrence of anything so obviously subversive of the principles of warfare for which the Imperial German Government have in the past so wisely and so firmly contended.

The Government and the people of the United States look to the Imperial German Government for just, prompt and enlightened action in this vital matter with the greater confidence because the United States and Germany are bound together not only by special ties of friendship but also by the explicit stipulations of the treaty of 1828 between the United States and the Kingdom of Prussia.

Expressions of regret and offers of reparation in case of the destruction of neutral ships sunk by mistake, while they may satisfy international obligations, if no loss of life results, can not justify or excuse a practice, the natural and necessary effect of which is to subject neutral nations and neutral persons to new and immeasurable risks.

The Imperial German Government will not expect the Government of the United States to omit any word or any act necessary to the performance of its sacred duty of maintaining the rights of the United States and its citizens and of safeguarding their free exercise and enjoyment.

BRYAN.

Ambassador W. H. Page to the Secretary of State.

AMERICAN EMBASSY,
London, May 18, 1915.

SIR: Adverting to the Department's cablegram No. 1408 of April 12, regard to the detention of the S. S. *Wico* by the British authorities, and instructing me to acquaint the British Government that the Government of the United States considered that any question arising out of the seizure of American cargoes by the German authorities would be

a matter for adjustment between the two Governments, and could not afford justification for the seizure of American cargoes by the British authorities, I have the honor to transmit herewith, for the information of the Department, a copy of a note, under date of May 16, which I have received from the Foreign Office in reply to my representations in the premises.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

FOREIGN OFFICE,

May 16, 1915.

SIR: I have the honour to acknowledge the receipt of the note of the 16th ultimo, in which Your Excellency stated, in connection with the detention of the American ship *Wico*, that the Government of the United States considered that any question arising out of the seizure of American cargoes by the German authorities would be a matter for adjustment between the two Governments, and could not afford justification for the seizure of American cargoes by British authorities.

I regret that my note of the 7th instant did not explain with sufficient clearness the attitude which His Majesty's Government feel constrained to adopt in the matter. They had no intention of claiming the right to interfere with neutral vessels on their way to neutral ports, on the ground that such vessels were liable to be captured by enemy cruisers. I should have stated that the recent seizures of a number of such vessels and their diversion to German ports were effected in circumstances which left no doubt that there was collusion between the parties interested in the cargoes and the German authorities.

The right which His Majesty's Government claim, and which they feel confident will not be questioned by the United States Government, is that neutral ships may be held up in cases where there are good grounds to suspect that their ostensible destination is not the genuine destination, and that fraudulent arrangements have been concerted with the enemy cruisers for delivering ship and cargo into their hands.

I have, etc.,

For the Secretary of State:

W. LANGLEY.

*British memorandum, May 20, 1915, in reference to the detention of American ships and cargoes.**

FIRST: There are at the present moment three American ships detained in this country. Two of them are cotton ships, which are dealt with below. The third is the steamer *Joseph W. Fordney*. This vessel, with a cargo of foodstuffs consigned to E. Klingener at Malmo (Sweden), was brought into Kirkwall on April 8th. She had been sighted by His Majesty's ships about ten miles from the Norwegian coast and had thereupon endeavored, with the evident desire to evade search, to escape rapidly into Norwegian territorial waters, but without success.

On the vessel's arrival in Kirkwall, inquiries were at once addressed to His Majesty's Minister at Stockholm, with regard to the consignee of the cargo, and a reply was received to the effect that no person of that name could be identified at Malmo, though there was a person of that name who resided at Gothenburg, and was manager of the Gothenburg branch of Hugo Hartvig, and who had stated that the consignments addressed to him on board the *Joseph W. Fordney* were intended for storage in Malmo.

SECOND: The suspicious conduct of the vessel in endeavoring to elude His Majesty's patrols and the known connections of the consignee of her cargo have tended to confirm other evidence, which has come to the knowledge of His Majesty's Government, that the foodstuffs were in reality destined for Germany. It was accordingly decided that the cargo must be placed in the Prize Court, and the vessel is at present discharging at Portishead, England, on the completion of which operation she will be released.

His Majesty's Government feel satisfied that in the circumstances of this case undue interference with American interests cannot with reason be imputed to them.

THIRD: The number of neutral vessels carrying American cargoes and at present held up is thirty-six. Of these twenty-three carry cargoes of American cotton. The United States Government are aware that since the enforcement of the blockade measures announced in the supplement to *The London Gazette*, of the 12th of March last, His Majesty's Government have acted as regards shipments of American cotton in accordance with the provisions of an arrangement arrived at in collaboration with representatives of the American cotton interests. The terms of the arrangement are as follows:

A. All cotton for which contracts, sale and freight engagements already have been made before March 2nd, is to be allowed free transit or bought at the contract price if stopped, provided the ship sails not later than the 31st of March.

* Not printed in *Diplomatic Correspondence*, etc. *The New York Times*, May 21, 1915.

B. Similar treatment is to be accorded all cotton insured before the 2nd of March, provided it is put aboard not later than the 16th of March.

C. All shipments of cotton claiming the above protection are to be declared before sailing, and documents produced and certificates obtained from Consular officers or other authorities fixed by the Government.

FOURTH: In accepting this scheme, which it may be noted applies to shipments of cotton for a neutral destination only, the principal representatives of the American cotton interests described it to his Majesty's Ambassador at Washington as conceding all that the American interests could properly ask. It was never suggested that vessels or cargoes with an enemy destination should be allowed to proceed. His Majesty's Government were, moreover, given to understand that the provisions of the arrangement were acceptable to the United States Government.

FIFTH: It is intended shortly to furnish a statement showing precisely what cargoes or portions of cargoes his Majesty's Government have dealt with under the above arrangement, and as regards those which they have decided to purchase at the contract price under the terms of Paragraph A of the arrangement, direct discussions have already been opened with the special representatives of the American parties interested in London.

SIXTH: A considerable portion of the cotton has already been sold, and arrangements are being made for handing over the proceeds to the parties entitled to receive the total value, as a first installment of the completed transaction. It is obvious that all these arrangements require some time for adjustment. Meanwhile, it is not believed that the original owners can, as appears to be apprehended, be suffering acutely by the delay of full payment. It is to be presumed that in accordance with the customs of trade, the owners drew bills to the value of their goods before or at the time of shipment, and, if such bills have been negotiated in the usual way, it is difficult to understand why the drawers should be put to inconvenience on this account, at least before the date when the bills fall due.

SEVENTH: On an impartial review of the facts it will, his Majesty's Government feel sure, be admitted that no arbitrary interference with American interests has, in regard to these cargoes, occurred, seeing that his Majesty's Government has acted throughout in conformity with the terms of an arrangement agreeable to the interests concerned, and that United States citizens will suffer no pecuniary loss.

EIGHTH: As regards other American cargoes, or portions of cargoes, which have been placed in the Prize Court his Majesty's Government resort to this measure in cases where either the goods concerned are contraband, or there is evidence that, although ostensibly consigned to a person in neutral countries, they are in reality destined to the enemy in contravention of the rules of blockade. The right to submit such cases to the public investigation of a judicial tribunal is one which his Majesty's Government cannot forego, and they feel convinced that the enlightened opinion in the United States cannot adversely criticize their course of action in this respect.

NINTH: It is true that a number of these cases have been pending in the Prize Court for some time. This is notably the case in regard to certain vessels carrying large shipments of meat and lard ostensibly consigned to Scandinavian ports. The United States Government are, however, no doubt aware that much of the delay involved in these instances is due to the fact that the negotiations have been carried on for many weeks with a representative of the principal American meat packers, for an arrangement designated to limit importation into neutral countries adjacent to Germany, to quantities actually required in those countries for bona fide home consumption. The American meat packers have demanded as a part of the settlement to be agreed upon, that His Majesty's Government should buy the cargoes of several ships now held up in the Prize Court. Hence the delay in bringing these cases to adjudication.

The negotiations for an amicable settlement have, unfortunately, come to a standstill owing to the exorbitant terms insisted upon by the representative of the American packers. This stage having now been reached, His Majesty's Government have decided to go on with the Prize Court proceedings in these cases, and it is not expected that a decision will be much longer delayed.

TENTH: It may finally be pointed out that repeated complaint, as to injury suffered generally by American trade in consequence of interference due to British naval measures, derives little substance from the published American trade returns. A table of figures taken from these returns and showing the amount of recent American trade with Germany and with neutral countries supplying Germany, is annexed hereto. It certainly tends to disprove any contention that American trade with neutral countries has recently suffered. It will be seen that whereas American exports to Germany and Austria in February, 1915,

fell by \$21,500,000, as compared with the same month in 1914, American exports to Scandinavia, Holland and Italy rose by the enormous figure of \$61,100,000.

ELEVENTH: Similar figures for the month of March have not yet reached His Majesty's Government, but they have received statistics for that month of the value of exports and imports through New York, as issued by the Collector of the Port, and while pointing out a large increase in the value of exports in 1915, compared with those of 1914, as shown in the tables annexed, they desire especially to call attention to a separate statement indicating the increase in the amount of the export to Scandinavian and Dutch ports of two commodities only—bacon and lard. These figures show that as against 1,253 boxes of bacon and 9,816 tierces of lard exported to the ports noted in the above countries in March, 1914, there were exported in March, 1915, 32,222 boxes of bacon and 95,676 tierces of lard.

TWELFTH: His Majesty's Government consider that the abnormal increase in supplies imported by neutral countries, as shown in these statistics, alone justifies their assumption as to the ultimate destination of many items in cargoes consigned to one or the other of the countries in question in the vessels which they have detained, but they would call attention to the fact that it is only when they have believed themselves to be in possession of conclusive evidence of the enemy destination of a cargo that they have seized such a cargo, and that American interests, as for instance in the case of cotton, have received especially sympathetic consideration.

*Statement of the Secretary of State, May 21, 1915, regarding an error in the foregoing:**

The foreign trade advisers' attention has been called to the statement of the Foreign Office of Great Britain, published in this morning's papers, an extract from which follows:

"FOURTH: In accepting this scheme, which, it may be noted, applies to shipments of cotton for a neutral destination only, the principal representative of the American interests described it to his Majesty's Ambassador at Washington as conceding all that the American interests could properly ask. It was never suggested that vessels or cargoes with an enemy destination should be allowed to proceed. His Majesty's Government were, moreover, given to understand that the provisions of the arrangements were acceptable to the United States Government."

The plan referred to is the one which was entered into between the cotton shippers of this country and the British Embassy, a portion of which is quoted in the statement of the British Foreign Office.

Without discussing at this time the statement that "it was never suggested that vessels or cargoes with an enemy destination should be allowed to proceed," the foreign trade advisers, who informally and unofficially represented the cotton shippers in the negotiations which led to the so-called cotton arrangement, state that it was distinctly understood between Sir Arthur Cecil Spring-Rice, the British Ambassador, and Robert F. Rose, the foreign trade adviser conducting this discussion on behalf of the American cotton exporters, that nothing done by the foreign trade advisers should be regarded as official, and that everything done was to be considered as informal and unofficial, and in no way binding the United States Government to any arrangement reached, or be construed as a recognition of the Order in Council to be issued or the Declaration of March 1, which has been issued. This statement was made to the British Ambassador on March 3, when the first conference in the matter was held, was repeated at each subsequent conference, and each time the absolute assurance from the British Ambassador was received that, in acting for the cotton shippers in any way, the foreign trade advisers were to be regarded as not representing the United States Government in any manner.

Statement of the British Ambassador, May 21, 1915, correcting an error in the foregoing:†

The terms of the arrangement quoted in the British statement as telegraphed were arrived at in London between a private representative of the American cotton interests in London and British officials in London. The reference to the British Ambassador in Paragraph 4 is, therefore, an error.

The arrangement in question formed the subject of conversations between the Ambassador and representatives of the cotton interests in this country. There never was any question of a formal and official understanding between the United States Government and the British Embassy.

* Not printed in *Diplomatic Correspondence*, etc. *The New York Times*, May 22, 1915.

† Not printed in *Diplomatic Correspondence*, etc. *The New York Times*, May 22, 1915.

Ambassador W. H. Page to the Secretary of State ad Interim.

[Telegram.]

AMERICAN EMBASSY,
London, June 22, 1915.

Lord Crewe, in charge of Foreign Office during Sir Edward Grey's temporary absence, has just handed me a printed memorandum dated June 17. It is not an answer to the principles set forth in the note transmitted in your 1343 of March 30, but merely an explanation of concrete cases and the regulations under which they are dealt with. Foreign Office wishes to arrange for simultaneous publication here and in Washington morning of 25th inst. Please telegraph if this date is satisfactory. Memorandum reads as follows:

1. His Majesty's Government have on various occasions, and notably in the communication which was addressed to the United States Ambassador on the 15th March last, given assurances to the United States Government that they would make it their first aim to minimize the inconvenience which must inevitably be caused to neutral commerce from the existence of a state of war at sea, and in particular from the measures taken by the Allied Governments for the restriction of the enemies' overseas trade. In view of the representation and complaints made to this department by the Ambassador from time to time as to the peculiar hardships alleged to have been wrongly inflicted on American trade and shipping by the operation of those measures, His Majesty's Government desire to offer the following observations respecting to manner in which they have consistently endeavored to give practical effect to those assurances.

2. It will be recalled that, at the moment when His Majesty's Government announced their measures against enemy commerce, they declared their intention to refrain altogether from the exercise of the right to confiscate ships or cargoes, which belligerents had always previously claimed in respect of breaches of blockade; that under Article Five [1] of the enactment of the 11th March, it was expressly provided that any person claiming to be interested in goods placed in the Prize Court in pursuance of the provision of that enactment, might forthwith issue a writ against the proper officer of the Crown, the object being to confer upon claimants the right to institute proceedings without waiting for the writ of the procurator general, and thus to remove all possible cause of legitimate grievance on account of delay; and that, finally, a pacific assurance was given to the United States Government that the instructions to be issued by His Majesty's Government to the fleet, and to the customs officials and executive officials concerned, would impress upon them the duty of acting with the utmost dispatch consistent with the object in view, and of showing in every case such consideration for neutrals as might be compatible with that object, namely, to prevent vessels carrying goods for, or coming from, the enemy's territory.

3. The above measures were all designed to alleviate the burdens imposed upon neutral sea-borne commerce in general. Various special concessions, over and above those enumerated, have moreover been made in favour of United States citizens.

4. Thus His Majesty's Government have acted, as regards shipments of American cotton, in accordance with the provisions of an agreement arrived at in direct collaboration with representatives of the American cotton interests. In accepting this scheme, the principal representative of those interests described it as conceding all that American interests could properly ask. The provisions of the arrangement were, as the United States Ambassador is aware, as follows:

"(1) All cotton for which contracts of sale and freight engagements have already been made before the 2d March is to be allowed free [or bought at contract price if stopped], provided the ship sails not later than the 31st March.

"(2) Similar treatment is to be accorded to all cotton insured before the 2d March, provided it is put on board not later than the 16th March.

"(3) All shipments of cotton claiming the above protection are to be declared before sailing, and documents produced to, and certificates obtained from, consular officers or other authority fixed by the Government."

5. Considerable shipments of cotton have already been dealt with under this arrangement, and in certain cases the dates specified have been extended in favour of American shippers. The Board of Trade have already paid a sum exceeding £450,000 to various American claimants, and all claims are being and will continue to be paid as rapidly as they are presented and the proofs of title can be checked. If in some cases progress has been delayed, this has been due to the fact which has seriously embarrassed His Majesty's Government—that a number of consignments, for which the American shippers had specifically invoked the protection of the arrangement, are now claimed by Swedish and Dutch firms, whose title of ownership, notwithstanding the action of the American shipper, appears, in some cases to be valid, and in others has led to the issue of writs in the Prize Court.

6. It has been explicitly acknowledged by the special representatives of the American claimants, who have been in constant and direct communication with the Board of Trade, that all the claims so far submitted under the cotton arrangement have been settled with the utmost promptitude so soon as the production of the necessary documents by the claimants allowed of this being done. There is, at the present moment, no claim before His Majesty's Government that has not been paid, and the sums so paid over are already considerably in excess of the amounts realized by the sale of the goods.

7. As regards the more general allegation of delay in dealing with cases of detained cargoes, the following facts and figures may be quoted:

"The total number of vessels which, having cleared from United States ports since the initiation of the retaliatory measures against German trade, are still detained in United Kingdom ports, is 27; of this number, 8 are discharging cotton which His Majesty's Government has agreed to purchase under the above arrangement. Of the remaining 19 vessels, 7 are free to depart so soon as the items of their cargo placed in the Prize Court have been discharged. The other 12, of which 3 only are American ships, are detained pending inquiries as to suspicious consignments, and particulars as to the dates and approximate causes of detention are furnished in the accompanying list: It will be observed that 8 have been detained for a period of less than a week, and

3 for a period of less than a fortnight, while the detention of 1 is due to the difficulties in regard to transit across Sweden and Russia."

8. His Majesty's Government remain convinced that, on an impartial review of the facts, it will be admitted that no arbitrary interference with American interests has, in regard to cotton cargoes, occurred; while if due regard be paid to the enormous volume of American and neutral shipping which is continually engaged in the trans-Atlantic trade, the figures and dates quoted in the preceding paragraph will emphasize the restricted nature of any interference which has taken place and the close attention with which the officials concerned have adhered to their instructions to act in all cases with expedition and with every possible consideration for neutrals.

9. Since His Majesty's Government have been compelled to adopt their present measures against German commerce, they have given special consideration to the question of avoiding as far as possible unnecessary damage to the interests of neutrals in regard to the export of goods of German origin, and here again liberal concessions have been made to United States citizens. Under the rules enacted on the 11th March provision is made for the investigation of all neutral claims respecting such goods in the Prize Court, and it is obvious that these claims can receive due and equitable consideration most properly before a judicial tribunal. Nevertheless, in deference to the express desire of the United States Government, arrangements were made toward the end of March whereby United States citizens who might desire to import goods of German origin via a neutral port were enabled to produce proof of payment to His Majesty's Embassy at Washington. If such proof were deemed satisfactory, His Majesty's Government gave an undertaking that the goods concerned should not be interfered with in transit, and the American importer was freed from the necessity of submitting his claim to the Prize Court in London for adjudication. A few days later His Majesty's Government further agreed to recognize the neutral ownership of goods of enemy origin even if not paid for before the 1st March, provided they were subject of an f. o. b. contract of earlier date, and had arrived at a neutral port before the 15th March.

10. Special treatment has also been accorded to cargoes of particular products destined for the United States and stated to be indispensable for the industries of the country; and, in notes addressed to the United States Ambassador in April and May, undertakings were given not to interfere during transit with certain cargoes of dyestuffs, potash, and German beet seed.

11. When it became apparent that large quantities of enemy goods were still passing out through neutral countries, His Majesty's Government felt it necessary to fix a definite date after which such shipments must cease to enjoy the special immunity, theretofore granted, from liability to being placed in the Prize Court. It had been observed that a large increase had taken place in the number of vessels sailing from neutral countries to America and one of the principal lines of steamships advertised a daily in place of a weekly service. In such circumstances it appeared scarcely possible that goods of enemy origin, bought and paid for prior to the 1st March, should not have already been shipped to their destination. First June was accordingly fixed as the date after which the privilege allowed in the case of such shipments should cease; but once more a special favour was granted by extending the date in exceptional cases to the 15th June.

12. Importers in the United States having now had three months in which to clear off their purchases in enemy territory, His Majesty's Government trust that, in presence of the circumstances enumerated, the United States Government will acknowledge the great consideration which has been shown to American interests.

13. Nevertheless a fresh appeal has now been made to His Majesty's Government that shipments of American owned goods of enemy origin, if paid for before the beginning of March, should be allowed to be shipped without molestation after the 15th June. The appeal is based principally upon the contentions [A] that insufficient time has already elapsed; [B] that no mention of a time limit is made in the enactment of the 11th March; [C] that the proofs of ownership required by His Majesty's Government are of an exacting nature and involve much time for preparation.

14. The first contention [A] has already been dealt with. As regards [B] and [C], it is true that the enactment of the 11th March contains no mention of a time limit. But it seems to be overlooked that the time limit had been fixed only for the special immunity granted as an exception from that enactment. It was as a friendly concession to American interests that His Majesty's Government agreed to an investigation of claims outside the Prize Court. As for the exacting nature of the proofs required by His Majesty's Government, experience has shown that such proofs were necessary.

15. In deference, however, to the renewed representations of the United States Ambassador, His Majesty's Government have given further directions that in all such cases, as may have been specially submitted through the British Embassy at Washington or to His Majesty's Government direct on or before the 15th June and passed, the goods shall be allowed to proceed without interference, if shipped from a neutral port on the conditions already laid down, notwithstanding the fact that shipment may not have been made before the 15th June.

16. His Majesty's Government will also be prepared hereafter to give special consideration to cases presented to them and involving particular hardships, if the goods concerned are required for neutral Governments or municipalities, or in respect of works of public utility, and where payment can be shown to have been made before the 1st March, 1915.

17. With the above exceptions, His Majesty's Government regret they can not continue to deal through the diplomatic channel with individual cases, but they would again point out that special provision is made for the consideration of such cases in the Prize Court.

18. Complaints have not infrequently been made that undue delay occurs in dealing with American cargoes in the Prize Court. An interesting comment on this subject was made by the president of the Prize Court in the case of the cargo ex steamship *Ogeechee* on the 14th instant. His lordship, according to the transcript from the official shorthand writer's notes, made the following observations:

"It is a very extraordinary thing that, when the Crown are ready to go on, the claimants come here and say, 'We can not proceed for six weeks.' Some day, towards the end of last term, I had a row of eminent counsel in front pressing me to fix a case at once. I fixed it very nearly at once—that is to say, the second day of the following term. They all came and said: 'We want an adjournment for six weeks.'"

19. The solicitor general hereupon remarked:

"If I might say so on that one of the reasons I applied to-day on behalf of the Crown that the matter should be dealt with as soon as possible is for that very reason. There has been such a strong desire on the part of America and American citizens that there should be no delay, but one finds, in fact, the delay comes from there."

20. The president then stated:

"I know that. I do not know what the explanation is, but I am anxious that there should be no delay."

21. It is true that a number of cases, principally relating to cargoes which, though ostensibly consigned to a person in a neutral country, are in reality believed to be destined for the enemy, have been pending in the Prize Court for some time. The United States Government are aware that most of these cargoes consist of meat and lard, and that much of the delay in bringing these cargoes to adjudication was due to the fact that negotiations were being carried on for many weeks with a representative of the principal American meat packers, for an amicable settlement out of court. When at length, owing to the failure of the negotiations, His Majesty's Government decided that they would continue the Prize Court proceedings, and had at the request of the claimants fixed the earliest possible date for the hearing, counsel for the latter asked for an adjournment in their interests despite the fact that the Crown was, by his own admission, ready to proceed.

22. His Majesty's Government are earnestly desirous of removing all causes of avoidable delay in dealing with American cargoes and vessels which may be detained, and any specific inquiries or representations which may be made by the United States Government in regard to particular cases will always receive the most careful consideration and all information which can be afforded without prejudice to Prize Court proceedings will be readily communicated; but they can scarcely admit that on the basis of actual facts, any substantial grievance on the part of American citizens is justified or can be sustained, and they therefore confidently appeal to the opinion of the United States Government as enlightened by this memorandum.

PAGE.

The German Minister for Foreign Affairs to Ambassador Gerard.
[Translation.]

FOREIGN OFFICE,
Berlin, July 8, 1915.

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated the 10th ultimo, Foreign Office No. 3814, on the subject of the impairment of American interests by the German submarine war.

The Imperial Government has learned with satisfaction from the note how earnestly the Government of the United States is concerned in seeing the principles of humanity realized in the present war. Also, this appeal meets with full sympathy in Germany, and the Imperial Government is quite willing to permit its statements and decisions in the case under consideration to be governed by the principles of humanity just as it has done always.

The Imperial Government welcomed it with gratitude when the American Government in its note of May 15, 1915, itself recalled that Germany had always permitted itself to be governed by the principles of progress and humanity in dealing with the law of maritime war. Since the time when Frederick the Great negotiated with John Adams, Benjamin Franklin, and Thomas Jefferson the treaty of friendship and commerce of September 10, 1785, between Prussia and the Republic of the West, German and American statesmen have in fact always stood together in the struggle for the freedom of the seas and for the protection of peaceable trade. In the international proceedings which have since been conducted for the regulation of the right of maritime war Germany and America have jointly advocated progressive principles, especially the abolishment of the right of capture at sea and the protection of the interests of neutrals. Even at the beginning of the present war the German Government immediately declared its willingness, in response to the proposal of the American Government, to ratify the Declaration of London and thereby to subject itself, in the use of its naval forces, to all the restrictions provided therein in favor of neutrals. Germany has likewise been always tenacious of the principle that war should be conducted against the armed and organized forces of the enemy country, but that the civilian population of the enemy must be spared as far as possible from the measures of war. The Imperial Government cherishes the definite hope that some way will be found when peace is concluded, or perhaps earlier, to regulate the law of maritime war in a manner guaranteeing the freedom of the seas, and will welcome it with gratitude and satisfaction if it can work hand in hand with the American Government on that occasion.

If in the present war the principles which should be the ideal of the future have been traversed more and more the longer its duration, the German Government has no guilt therein.

It is known to the American Government how Germany's adversaries, by completely paralyzing peaceable traffic between Germany and the neutral countries, have aimed from the very beginning, and with increasing lack of consideration, at the destruction not so much of the armed forces as the life of the German nation, repudiating in

so doing all the rules of international law and disregarding all the rights of neutrals. On November 3, 1914, England declared the North Sea to be a war area, and by planting poorly anchored mines and the stoppage and capture of vessels made passage extremely dangerous and difficult for neutral shipping, so that it is actually blockading neutral coasts and ports, contrary to all international law. Long before the beginning of the submarine war England practically completely intercepted legitimate neutral navigation to Germany also. Thus Germany was driven to submarine war on trade. On November 16, 1914, the English Prime Minister declared in the House of Commons that it was one of England's principal tasks to prevent food for the German population from reaching Germany by way of neutral ports. Since March 1 of this year England has been taking from neutral ships, without further formality, all merchandise proceeding to Germany, as well as all merchandise coming from Germany, even when neutral property. Just as was the case with the Boers, the German people is now to be given the choice of perishing from starvation, with its women and children, or of relinquishing its independence.

While our enemies thus loudly and openly have proclaimed war without mercy until our utter destruction, we are conducting war in self-defense for our national existence and for the sake of peace of assured permanency. We have been obliged to adopt submarine warfare to meet the declared intentions of our enemies and the method of warfare adopted by them in contravention of international law.

With all its efforts in principle to protect neutral life and property from damage as much as possible, the German Government recognized unreservedly in its memorandum of February 4 that the interests of neutrals might suffer from submarine warfare. However, the American Government will also understand and appreciate that in the fight for existence which has been forced upon Germany by its adversaries and announced by them, it is the sacred duty of the Imperial Government to do all within its power to protect and to save the lives of German subjects. If the Imperial Government were derelict in these, its duties, it would be guilty before God and history of the violation of those principles of the highest humanity which are the foundation of every national existence.

The case of the *Lusitania* shows with horrible clearness to what jeopardizing of human lives the manner of conducting war employed by our adversaries leads. In most direct contradiction of international law, all distinctions between merchantmen and war vessels have been obliterated by the order to British merchantmen to arm themselves and to ram submarines and the promise of rewards therefor; and neutrals who use merchantmen as travelers have thereby been exposed in an increasing degree to all the dangers of war. If the commander of the German submarine which destroyed the *Lusitania* had caused the crew and travelers to put out in boats before firing the torpedo this would have meant the sure destruction of his own vessel. After the experiences in the sinking of much smaller and less seaworthy vessels, it was to be expected that a mighty ship like the *Lusitania* would remain above water long enough, even after the torpedoing, to permit the passengers to enter the ship's boats. Circumstances of a very peculiar kind, especially the presence on board of large quantities of highly explosive materials, defeated this expectation. In addition, it may be pointed out that if the *Lusitania* had been spared thousands of cases of ammunition would have been sent to Germany's enemies and thereby thousands of German mothers and children robbed of their supporters.

In the spirit of friendship with which the German nation has been imbued toward the Union and its inhabitants since the earliest days of its existence, the Imperial Government will always be ready to do all it can, during the present war also, to prevent the jeopardizing of the lives of American citizens.

The Imperial Government therefore repeats the assurances that American ships will not be hindered in the prosecution of legitimate shipping, and the lives of American citizens on neutral vessels shall not be placed in jeopardy.

In order to exclude any unforeseen dangers to American passenger steamers, made possible in view of the conduct of maritime war on the part of German's adversaries, the German submarines will be instructed to permit the free and safe passage of such passenger steamers when made recognizable by special markings and notified a reasonable time in advance. The Imperial Government, however, confidently hopes that the American Government will assume the guarantee that these vessels have no contraband on board. The details of the arrangements for the unhampered passage of these vessels would have to be agreed upon by the naval authorities of both sides.

In order to furnish adequate facilities for travel across the Atlantic Ocean for American citizens, the German Government submits for consideration a proposal to increase the number of available steamers by installing in the passenger service a reasonable number of neutral steamers, the exact number to be agreed upon, under the American flag under the same conditions as the American steamers above mentioned.

The Imperial Government believes that it can assume that in this manner adequate

facilities for travel across the Atlantic Ocean can be afforded American citizens. There would therefore appear to be no compelling necessity for American citizens to travel to Europe in time of war on ships carrying an enemy flag. In particular the Imperial Government is unable to admit that American citizens can protect an enemy ship through the mere fact of their presence on board. Germany merely followed England's example when it declared part of the high seas an area of war. Consequently accidents suffered by neutrals on enemy ships in this area of war can not well be judged differently from accidents to which neutrals are at all times exposed at the seat of war on land when they betake themselves into dangerous localities in spite of previous warning.

If, however, it should not be possible for the American Government to acquire an adequate number of neutral passenger steamers, the Imperial Government is prepared to interpose no objections to the placing under the American flag by the American Government of four enemy passenger steamers for the passenger traffic between America and England. The assurances of "free and safe" passage for American passenger steamers would then be extended to apply under the identical pre-conditions to these formerly hostile passenger ships.

The President of the United States has declared his readiness, in a way deserving of thanks, to communicate and suggest proposals to the Government of Great Britain with particular reference to the alteration of maritime war. The Imperial Government will always be glad to make use of the good offices of the President, and hopes that his efforts in the present case, as well as in the direction of the lofty ideal of the freedom of the seas, will lead to an understanding.

The undersigned requests the Ambassador to bring the above to the knowledge of the American Government, and avails himself of the opportunity to renew to His Excellency the assurance of his most distinguished consideration.

VON JAGOW.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

Washington, July 14, 1915.

In view of differences which are understood to exist between the two Governments as to the principles of law applicable in prize court proceedings in cases involving American interests, and in order to avoid any misunderstanding as to the attitude of the United States in regard to such proceedings, you are instructed to inform the British Government that in so far as the interests of American citizens are concerned the Government of the United States will insist upon their rights under the principles and rules of international law as hitherto established, governing neutral trade in time of war, without limitation or impairment by Orders in Council or other municipal legislation by the British Government, and will not recognize the validity of prize court proceedings taken under restraints imposed by British municipal law in derogation of the rights of American citizens under international law.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

Washington, July 15, 1915.

Ambassador Page is informed that it has been brought to the attention of the Department that the steamship *Neches*, of American register, sailing from Rotterdam for the United States, carrying a general cargo, after being detained at the Downs, was brought to London, where it was required by the British authorities to discharge cargo, the property of American citizens.

It appears that the ground advanced to sustain this action is that the goods originated, in part at least, in Belgium, and fall, therefore, within the provisions of paragraph 4 of the Order in Council of March 11, which stipulates that every merchant vessel sailing from a port other than a German port, carrying goods of enemy origin, may be required to discharge such goods in a British or allied port.

Ambassador Page is instructed in this case to reiterate the position of the Government of the United States as set forth in the Department's instruction of March 30, 1915, with respect to the Order in Council mentioned, the international invalidity of which the Government of the United States regards as plainly illustrated by the present instance of the seizure of American-owned goods passing from the neutral port of Rotter-

dam to a neutral port of the United States merely because the goods came originally from territory in the possession of an enemy of Great Britain.

Mr. Page is also instructed to inform the Foreign Office that the legality of this seizure can not be admitted and that in the view of the Government of the United States it violates the right of the citizens of one neutral to trade with those of another, as well as with those of belligerents except in contraband, or in violation of a legal blockade of an enemy seaport; and that the rights of American owners of goods to bring them out of Holland, in due course, in neutral ships must be insisted upon by the United States, even though such goods may have come originally from the territories of enemies of Great Britain. He is directed further to insist upon the desire of this Government that goods taken from the *Neches*, which are the property of American citizens, should be expeditiously released to be forwarded to their destination, and to request that he be advised of the British Government's intended course in this matter at the earliest moment convenient to that Government.

*The Secretary of State to Ambassador J. W. Gerard.**

[Telegram.]

Department of State.

Washington, July 21, 1915.

You are instructed to deliver textually the following note to the Minister for Foreign Affairs:

The note of the Imperial German Government dated the 8th of July, 1915, has received the careful consideration of the Government of the United States, and it regrets to be obliged to say that it has found it very unsatisfactory, because it fails to meet the real differences between the two Governments, and indicates no way in which the accepted principles of law and humanity may be applied in the grave matter of controversy, but proposes, on the contrary, arrangements for a partial suspension of those principles which virtually set them aside.

The Government of the United States notes with satisfaction that the Imperial German Government recognizes without reservation the validity of the principles insisted on in the several communications which this Government has addressed to the Imperial German Government with regard to its announcement of a war zone and the use of submarines against merchantmen on the high seas—the principle that the high seas are free, that the character and cargo of a merchantman must first be ascertained before she can lawfully be seized or destroyed, and that the lives of noncombatants may in no case be put in jeopardy unless the vessel resists or seeks to escape after being summoned to submit to examination, for a belligerent act of retaliation is *per se* an act beyond the law, and the defense of an act as retaliatory is an admission that it is illegal.

The Government of the United States is, however, keenly disappointed to find that the Imperial German Government regards itself as in large degree exempt from the obligation to observe these principles, even where neutral vessels are concerned, by what it believes the policy and practice of the Government of Great Britain to be in the present war with regard to neutral commerce. The Imperial German Government will readily understand that the Government of the United States cannot discuss the policy of the Government of Great Britain with regard to neutral trade except with that Government itself, and that it must regard the conduct of other belligerent Governments as irrelevant to any discussion with the Imperial German Government of what this Government regards as grave and unjustifiable violations of the rights of American citizens by German naval commanders.

Illegal and inhuman acts, however justifiable they may be thought to be, against an enemy who is believed to have acted in contravention of law and humanity, are manifestly indefensible when they deprive neutrals of their acknowledged rights, particularly when they violate the right to life itself. If a belligerent cannot retaliate against an enemy without injuring the lives of neutrals, as well as their property, humanity, as well as justice and a due regard for the dignity of neutral powers, should dictate that the practice be discontinued. If persisted in it would in such circumstances constitute an unpardonable offense against the sovereignty of the neutral nation affected.

The Government of the United States is not unmindful of the extraordinary conditions created by this war or of the radical alterations of circumstance and method of attack produced by the use of instrumentalities of naval warfare which the nations of the world cannot have had in view when the existing rules of international law were formulated, and it is ready to make every reasonable allowance for these novel and unexpected aspects of war at sea; but it cannot consent to abate any essential or fundamental

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right of its people because of a mere alteration of circumstances. The rights of neutrals in time of war are based upon principle, not upon expediency, and the principles are immutable. It is the duty and obligation of belligerents to find a way to adapt the new circumstances to them.

The events of the past two months have clearly indicated that it is possible and practicable to conduct such submarine operations as have characterized the activity of the imperial German Navy within the so-called war zone in substantial accord with the accepted practices of regulated warfare. The whole world has looked with interest and increasing satisfaction at the demonstration of that possibility by German naval commanders. It is manifestly possible, therefore, to lift the whole practice of submarine attack above the criticism which it has aroused and remove the chief causes of offense.

In view of the admission of illegality made by the Imperial Government when it pleaded the right of retaliation in defense of its acts, and in view of the manifest possibility of conforming to the established rules of naval warfare, the Government of the United States cannot believe that the Imperial Government will longer refrain from disavowing the wanton act of its naval commander in sinking the *Lusitania* or from offering reparation for the American lives lost, so far as reparation can be made for a needless destruction of human life by an illegal act.

The Government of the United States, while not indifferent to the friendly spirit in which it is made, cannot accept the suggestion of the Imperial German Government that certain vessels be designated and agreed upon which shall be free on the seas now illegally proscribed. The very agreement would by implication, subject other vessels to illegal attack, and would be a curtailment and therefore an abandonment of the principles for which this Government contends, and which in times of calmer counsels every nation would concede as of course.

The Government of the United States and the Imperial German Government are contending for the same great object, have long stood together in urging the very principles upon which the Government of the United States now solemnly insists. They are both contending for the freedom of the seas. The Government of the United States will continue to contend for that freedom, from whatever quarter violated, without compromise and at any cost. It invites the practical co-operation of the Imperial German Government at this time, when co-operation may accomplish most and this great common object be most strikingly and effectively achieved.

The Imperial German Government expresses the hope that this object may be in some measure accomplished even before the present war ends. It can be. The Government of the United States not only feels obliged to insist upon it, by whomsoever violated or ignored, in the protection of its own citizens, but is also deeply interested in seeing it made practicable between the belligerents themselves, and holds itself ready at any time to act as the common friend who may be privileged to suggest a way.

In the meantime the very value which this Government sets upon the long and unbroken friendship between the people and Government of the United States and the people and Government of the German nation impels it to press very solemnly upon the Imperial German Government the necessity for a scrupulous observance of neutral rights in this critical matter. Friendship itself prompts it to say to the Imperial Government that repetition by the commanders of German naval vessels of acts in contravention of those rights must be regarded by the Government of the United States, when they affect American citizens, as deliberately unfriendly.

LANSDOWN.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,

London, July 24, 1915.

Following note, dated July 23, received from Sir Edward Grey this morning:

On the 2d April Your Excellency handed me a copy of a communication containing the criticisms of the United States Government on the measures we have been constrained to take on account of the menace to peaceful commerce resulting from the German submarine policy. This communication has received the most careful consideration of His Majesty's Government.

2. I fully appreciate the friendly spirit and the candour which are shown in the communication and, replying in the same spirit, I trust that I may be able to convince your Excellency and also the administration at Washington that the measures we have announced are not only reasonable and necessary in themselves, but constitute no more than an adaptation of the old principles of blockade to the peculiar circumstances with which we are confronted.

3. I need scarcely dwell on the obligation incumbent upon the allies to take every step in their power to overcome their common enemy in view of the shocking violation of the recognized rules and principles of civilized warfare of which he has been guilty during the present struggle. Your Excellency's attention has

already been drawn to some of these proceedings in the memorandum which I handed to you on the 19th February. Since that time Lord Bryce's report, based on evidence carefully sifted by legal experts, describing the atrocities committed in Belgium, the poisoning of wells in German Southwest Africa, the use of poisonous gases against the troops in Flanders, and finally the sinking of the *Lusitania* without any opportunity to passengers and noncombatants to save their lives, have shown how indispensable it is that we should leave unused no justifiable method of defending ourselves.

4. Your Excellency will remember that in my notes of the 13th and 15th March I explained that the allied Governments intended to meet the German attempt to stop all supplies of every kind from leaving or entering British or French ports by themselves intercepting goods going to or from Germany. I read the communication from Your Excellency's Government not as questioning the necessity for our taking all the steps open to us to cripple the enemy's trade, but as directed solely to the question of the legitimacy of the particular measures adopted.

5. In the various notes which I have received from Your Excellency the right of a belligerent to establish a blockade of the enemy ports is admitted a right which has obviously no value save in so far as it gives power to a belligerent to cut off sea-borne exports and imports of his enemy. The contention which I understand the United States Government now put forward is that if a belligerent is so circumstanced that his commerce can pass through adjacent neutral ports as easily as through ports in his own territory, his opponent has no right to interfere and must restrict his measures of blockade in such a manner as to leave such avenues of commerce still open to his adversary. This is a contention which His Majesty's Government feel unable to accept and which seems to them unsustainable either in point of law or upon principles of international equity. They are unable to admit that a belligerent violates any fundamental principle of international law by applying a blockade in such a way as to cut off the enemy's commerce with foreign countries through neutral ports if the circumstances render such an application of the principles of blockade the only means of making it effective. The Government of the United States indeed intimates its readiness to take into account "the great changes which have occurred in the conditions and means of naval warfare since the rules hitherto governing legal blockade were formulated," and recognizes that "the form of close blockade with its cordon of ships in the immediate offing of the blockaded ports is no longer practicable in the face of an enemy possessing the means and opportunity to make an effective defense by the use of submarines, mines, and aircraft."

6. The only question then which can arise in regard to the measures resorted to for the purpose of carrying out a blockade upon these extended lines is whether, to use Your Excellency's words, they "conform to the spirit and principles of the essence of the rules of war"; and we shall be content to apply this test to the action which we have taken in so far as it has necessitated interference with neutral commerce.

7. It may be noted in this connection that at the time of the Civil War the United States found themselves under the necessity of declaring a blockade of some 3,000 miles of coast line, a military operation for which the number of vessels available was at first very small. It was vital to the cause of the United States in that great struggle that they should be able to cut off the trade of the Southern States. The Confederate Armies were dependent on supplies from over seas, and those supplies could not be obtained without exporting the cotton wherewith to pay for them. To cut off this trade the United States could only rely upon a blockade. The difficulties confronting the Federal Government were in part due to the fact that neighbouring neutral territory afforded convenient centres from which contraband could be introduced into the territory of their enemies and from which blockade running could be facilitated. Your Excellency will no doubt remember how, in order to meet this new difficulty, the old principles relating to contraband and blockade were developed and the doctrine of continuous voyage was applied and enforced under which goods destined for the enemy territory were intercepted before they reached the neutral ports from which they were to be re-exported.

8. The difficulties which imposed upon the United States the necessity of reshaping some of the old rules are somewhat akin to those with which the allies are now faced in dealing with the trade of their enemy. Adjacent to Germany are various neutral countries which afford her convenient opportunities for carrying on her trade with foreign countries. Her own territories are covered by a network of railways and waterways, which enable her commerce to pass as conveniently through ports in such neutral countries as through her own. A blockade limited to enemy ports would leave open routes by which every kind of German commerce could pass almost as easily as through the ports in her own territory. Rotterdam is indeed the nearest outlet for some of the industrial districts of Germany.

9. As a counterpoise to the freedom with which one belligerent may send his commerce across a neutral country without compromising its neutrality, the other belligerent may fairly claim to intercept such commerce before it has reached, or after it has left, the neutral State, provided, of course, that he can establish that the commerce with which he interferes is the commerce of his enemy and not commerce which is bona fide destined for or proceeding from the neutral State. It seems, accordingly, that if it be recognized that a blockade is in certain cases the appropriate method of intercepting the trade of an enemy country, and if the blockade can only become effective by extending it to enemy commerce passing through neutral ports, such an extension is defensible and in accordance with principles which have met with general acceptance.

10. To the contention that such action is not directly supported by written authority, it may be replied that it is the business of writers on international law to formulate existing rules rather than to offer suggestions for their adaptation to altered circumstances, and Your Excellency will remember the unmeasured terms in which a group of prominent international lawyers of all nations condemned the doctrine which had been laid down by the Supreme Court of the United States in the case of the *Springbok*, a doctrine upheld by the Claims Commission at Washington in 1873. But the United States and the British Governments took a broader view and looked below the surface at the underlying principles, and the Government of this country, whose nationals were the sufferers by the extension and development of the old methods of blockade made by the United States during the Civil War, abstained from all protest against the decisions by which the ships and their cargoes were condemned.

11. What is really important in the general interest is that adaptations of the old rules should not be made unless they are consistent with the general principles upon which an admitted belligerent right is based. It is also essential that all unnecessary injury to neutrals should be avoided. With these conditions it may be

safely affirmed that the steps we are taking to intercept commodities on their way to and from Germany fully comply. We are interfering with no goods with which we should not be entitled to interfere by blockade if the geographical position and the conditions of Germany at present were such that her commerce passed through her own ports. We are taking the utmost possible care not to interfere with commerce genuinely destined for or proceeding from neutral countries. Furthermore, we have tempered the severity with which our measures might press upon neutrals by not applying the rule which was invariable in the old form of blockade that ships and goods on their way to or from the blockaded area are liable to condemnation.

12. The communication made by the United States Embassy on the 2d April describes as a novel and quite unprecedented feature of the blockade that it embraces many neutral ports and coasts and has the effect of barring access to them. It does not appear that our measures can be properly so described. If we are successful in the efforts we are making to distinguish between the commerce of neutral and enemy countries there will be no substantial interference with the trade of neutral ports except in so far as they constitute ports of access to and exit from the enemy territory. There are at this moment many neutral ports which it would be mere affectation to regard as offering facilities only for the commerce of the neutral country in which they are situated, and the only commerce with which we propose to interfere is that of the enemy who seeks to make use of such ports for the purposes of transit to or from his own country.

13. One of the earlier passages in Your Excellency's memorandum was to the effect that the sovereignty of neutral nations in time of war suffers no diminution except in so far as the practice and consent of civilized nations has limited it "by the recognition of certain now clearly determined rights," which it is considered may be exercised by nations at war; and these it defines as the right of capture and condemnation for unneutral service, for the carriage of contraband and for breach of blockade. I may, however, be permitted to point out that the practice of nations on each of the three subjects mentioned has not at any time been uniform or clearly determined, nor has the practice of any maritime nation always been consistent.

14. There are various particulars in which the exact method of carrying a blockade into effect has from time to time varied. The need of a public notification, the requisite standard of effectiveness, the locality of the blockading squadrons, the right of the individual ship to a preliminary warning that the blockade is in force, and the penalty to be inflicted on a captured blockade runner are all subjects on which different views have prevailed in different countries and in which the practice of particular countries has been altered from time to time. The one principle which is fundamental and has obtained universal recognition is that by means of blockade a belligerent is entitled to cut off by effective means the sea-borne commerce of his enemy.

15. It is the same with contraband. The underlying principle is well established, but as to the details there has been a wide variety of view. As for unneutral service—the very term is of such recent introduction that many writers of repute on international law do not even mention it. It is impossible in the view of His Majesty's Government in these circumstances to maintain that the right of a belligerent to intercept the commerce of his enemy is limited in the way suggested in Your Excellency's communication.

16. There are certain subsidiary matters dealt with in Your Excellency's communication to which I think it well to refer. Amongst these may be mentioned your citation of the Declaration of Paris, due no doubt to the words which occur in the memorandum sent by me to Your Excellency on the 1st March, wherein it was stated that the allied Governments would hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership, or origin, and to our announcement that vessels might be required to discharge goods of enemy ownership as well as those of enemy origin or destination.

17. It is not necessary to discuss the extent to which the second rule of the Declaration of Paris is affected by these measures or whether it could be held to apply at all as between Great Britain and the United States. In actual practice, however, we are not detaining goods on the sole ground that they are the property of an enemy. The purpose of the measures we are taking is to intercept commerce on its way from and to the enemy country. There are many cases in which proof that the goods were enemy property would afford strong evidence that they were of enemy origin or enemy destination, and it is only in such cases that we are detaining them. Where proof of enemy ownership would afford no evidence of such origin or destination we are not in practice detaining the goods.

18. His Majesty's Government have been gratified to observe that the measures which they are enforcing have had no detrimental effect on the commerce of the United States. Figures of recent months show that the increased opportunities afforded by the war for American commerce have more than compensated for the loss of the German and Austrian markets.

19. I trust that in the light of the above explanations it will be realized that the measures to which we have resorted have been not only justified by the exigencies of the case, but can be defended as in accordance with general principles which have commended themselves to the Governments of both countries. I am glad to be able to assure Your Excellency that we shall continue to apply these measures with every desire to occasion the least possible amount of inconvenience to persons engaged in legitimate commerce.

I have, etc.,

E. GREY.

Ambassador W. H. Page to the Secretary of State.
[Telegram—Paraphrase.]

AMERICAN EMBASSY,
London, July 31, 1915.

Your 1848, July 14, 5 p. m. I have to-day received the following note from Sir Edward Grey:

FOREIGN OFFICE, July 31, 1915.

YOUR EXCELLENCY:

1. I have the honour to acknowledge the receipt of the note dated the 16th instant in which you were good enough to communicate to me for the information of His Majesty's Government, the opinion held by the Government of the United States, that in view of differences which they understand to exist between the two

countries as to the principles of law applicable in cases before the prize court, they could not recognize the validity of proceedings taken in His Majesty's prize court in derogation of the rights of citizens of the United States.

2. I do not understand to what divergence of views as to the principles of law applicable in cases before the prize court the Government of the United States refer, for I am not aware of any differences existing between the two countries as to the principles of law applicable in cases before such courts.

3. British prize courts, "According to the ancient form of commission under which they sit, are to determine cases which come before them according to the course of admiralty and the law of nations and the statutes, rules, and regulations for the time being in force in that behalf."

As to the principles applied by the American prize courts, I note that in the case of the *Amy Warwick* (2 Sprague, 123), it was held that prize courts are subject to the instructions of their own sovereign. In the absence of such instructions their jurisdiction and rules of decision are to be ascertained by reference to the known powers of such tribunals and the principles by which they are governed under the public law and the practice of nations. It would appear, therefore, that the principles applied by the prize courts of the two countries are identical.

4. As illustrating further the attitude adopted by the judges of British prize courts toward these two sources of law, the municipal legislation of its Sovereign on the one hand and the principles of International Law on the other, I should like to refer Your Excellency to a classical passage in the judgment of Lord Stowell, in the case of the *Fox*, in which that famous judge observed in the course of the discussion: "A question has been stated, what would be the duty of the court under Orders in Council, that were repugnant to the Law of Nations? It has been contended on one side that the court would at all events be bound to enforce the Orders in Council, on the other that the court would be bound to apply the rule of the law of nations adapted to the particular case, in disregard of the Orders in Council. This court is bound to administer the law of nations to the subjects of other countries in the different relations in which they may be placed toward this country and its Government. That is what others have a right to demand for their subjects and to complain if they receive it not. This is its unwritten law evidenced in the course of its decisions and collected from the common usage of civilized states. At the same time it is strictly true that by the Constitution of this country the King in Council possesses legislative rights over this court and has power to issue orders and instructions which it is bound to obey and enforce; and these constitute the written law of this court. These two propositions, that the court is bound to administer the law of nations, and that it is bound to enforce the King's Orders in Council, are not at all inconsistent with each other, because these orders and instructions are presumed to conform themselves, under the given circumstances, to the principles of its unwritten law. They are either directory applications of those principles to the cases indicated in them—cases which, with all the facts and circumstances belonging to them, and which constitute their legal character could be but imperfectly known to the court itself; or they are positive regulations, consistent with these principles, applying to matters which would require more exact and definite rules than those general principles are capable of furnishing. The constitution of this court, relatively to the legislative power of the King in Council, is analogous to that of the courts of common law relatively to that of the Parliament of this Kingdom. These courts have their unwritten law, the approved reasons, principles of natural reason and justice—they have likewise the written or statute law in acts of Parliament, which are directory applications of the same principles to particular subjects, or positive regulations consistent with them, upon matters which would remain too much at large if they were left to the imperfect information which the courts could extract from mere general speculations. What would be the duty of the individuals who preside in these courts, if required to enforce an act of Parliament which contradicted those principles, is a question which I presume they would not entertain *a priori*; because they will not entertain *a priori*, the supposition that any such will arise. In like manner this court will not let itself loose into speculations as to what would be its duty under such an emergency; because it can not, without extreme indecency, presume that any such emergency will happen. And it is the less disposed to entertain them because its own observation and experience attest the general conformity of such orders and instructions to its principles of unwritten law."

5. The above passage has recently been quoted and adopted by the president of the prize court in the case of the *Zamora*, in which Sir S. Evans said: "I make bold to express the hope and belief that the nations of the world need not be apprehensive that Orders in Council will emanate from the Government of this country in such violation of the acknowledged laws of nations that it is conceivable that our prize tribunals, holding the law of nations in reverence, would feel called upon to disregard and refuse obedience to the provisions of such orders."

6. In the note which I handed to Your Excellency on the 23d of July, I endeavored to convince the Government of the United States, and I trust with success, that the measures that we have felt ourselves compelled to adopt, in consequence of the numerous acts committed by our enemies in violation of the laws of war and the dictates of humanity are consistent with the principles of international law. The legality of these measures has not yet formed the subject of a decision of the prize court; but I wish to take this opportunity of reminding Your Excellency that it is open to any United States citizen whose claim is before the prize court to contend that any Order in Council which may affect his claim is inconsistent with the principles of international law and is, therefore, not binding upon the court. If the prize court declines to accept his contentions, and if, after such a decision has been upheld on appeal by the Judicial Committee of His Majesty's Privy Council, the Government of the United States of America considers that there is serious ground for holding that the decision is incorrect and infringes the rights of their citizens, it is open to them to claim that it should be subjected to review by an international tribunal.

7. This principle that the decisions of the national prize courts may properly be subjected to international review was conceded by Great Britain in Article 7 of the Jay Treaty of 1793 and by the United States of America under the Treaty of Washington of 1871. Your Excellency will no doubt remember that certain cases (collectively known as the "Matamoros cases") were submitted to the commission established under Articles 12-17 of the Treaty of Washington. In each of these cases proceedings in prize had been instituted in the prize courts of the United States, and in each case the judgment of the Supreme Court, the court of last resort, in cases of prize had been obtained, the United States filed a demurrer in these cases, alleging that as they had

been heard by the prize courts of the United States of original and appellate jurisdiction, the decision of the appellate court was final and no claim based upon it could be made before the commission. The demurrer was unanimously overruled and the cases heard, and the agent of the United States, in his report of the proceedings of the commission, stated that he personally "maintained no doubt of the jurisdiction of the commission as an international tribunal to review the decisions of the prize courts of the United States, where the parties alleging themselves aggrieved had prosecuted their claims by appeals to the court of last resort, as this jurisdiction, however, had been sometimes questioned, he deemed it desirable that a formal adjudication by the commission should be had upon this question."

8. The same principle was accepted both by the United States Government and His Majesty's Government in 1907 in connection with the proposed establishment of an international prize court, although certain constitutional difficulties have led the United States Government to propose that the right of recourse to the international prize court in connection with a decision of the Supreme Court of the United States should take the form of a direct claim for compensation.

9. It is clear, therefore, that both the United States Government and His Majesty's Government have adopted the principle that the decisions of a national prize court may be open to review if it is held in the prize court and in the Judicial Committee of the Privy Council on appeal that the orders and instructions issued by His Majesty's Government in matters relating to prize are in harmony with the principles of international law; and should the Government of the United States, unfortunately, feel compelled to maintain a contrary view, His Majesty's Government will be prepared to concert with the United States Government in order to decide upon the best way of applying the above principle to the situation which would then have arisen. I trust, however, that the defense of our action, which I have already communicated to Your Excellency, and the willingness of His Majesty's Government (which has been shown in so many instances) to make reasonable concessions to American interests, will prevent the necessity for such action arising.

10. In any case, I trust that the explanations given above will remove the misapprehension under which I can not but feel the Government of the United States are labouring as to the principles applied by British prize courts in dealing with the cases which come before them.

I have, etc.,

E. GREY.
PAGE.

*British proclamation, August 21, 1915, declaring cotton contraband of war.**

Now, therefore, we do hereby declare, by and with the advice of our Privy Council, that, during the continuance of the war, or until we do give further public notice, the following articles will be treated as absolutely contraband, in addition to those set out in our royal proclamation aforementioned: Raw cotton, cotton linters, cotton waste, and cotton yarn.

And we do hereby further declare that this our royal proclamation shall take effect from the date of its publication in the *London Gazette*.

The Secretary of State to Ambassador W. H. Page.

DEPARTMENT OF STATE,
Washington, October 21, 1915.

SIR: I desire that you present a note to Sir Edward Grey in the sense of the following:

(1) The Government of the United States has given careful consideration to Your Excellency's notes of January 7, February 10, June 22, July 23, July 31, (2) August 13, and to a note verbale of the British Embassy of August 6, relating to restrictions upon American commerce by certain measures adopted by the British Government during the present war. This Government has delayed answering the earlier of these notes in the hope that the announced purpose of His Majesty's Government "to exercise their belligerent rights with every possible consideration for the interests of neutrals" and their intention of "removing all causes of avoidable delay in dealing with American cargoes" and of causing "the least possible amount of inconvenience to persons engaged in legitimate trade," as well as their "assurances to the United States Government that they would make it their first aim to minimize the inconveniences" resulting from the "measures taken by the Allied Governments," would in practice not unjustifiably infringe upon the neutral rights of American citizens engaged in trade and commerce. It is, therefore, a matter of regret that this hope has not been realized, but, that, on the contrary, interferences with American ships and cargoes destined in good faith to neutral ports and lawfully entitled to proceed have become increasingly vexatious, causing American shipowners and American merchants to complain to this Government of the failure to

* Not printed in *Diplomatic Correspondence*, etc. *The New York Times*, August 22, 1915.

take steps to prevent an exercise of belligerent power in contravention of their just rights. As the measures complained of proceed directly from orders issued by the British Government, are executed by British authorities, and arouse a reasonable apprehension that, if not resisted, they may be carried to an extent even more injurious to American interests, this Government directs the attention of His Majesty's Government to the following considerations:

(2) Without commenting upon the statistics presented by His Majesty's Government to show that the export trade of the United States has increased in volume since the war began further than to point out that the comparative values fail to take into account the increased price of commodities resulting from a state of war or to make any allowance for the diminution in the volume of trade which the neutral countries in Europe previously had with the nations at war, a diminution which compelled them to buy in other markets, I will pass directly to the matters which constitute the specific complaints of this Government.

(3) *First.* The detentions of American vessels and cargoes which have taken place since the opening of hostilities have, it is presumed, been pursuant to the enforcement of the Orders in Council, which were issued on August 20 and October 29, 1914, and March 11, 1915, and relate to contraband traffic and to the interception of trade to and from Germany and Austria-Hungary. In practice these detentions have not been uniformly based on proofs obtained at the time of seizure, but many vessels have been detained while search was made for evidence of the contraband character of cargoes or of an intention to evade the nonintercourse measures of Great Britain. The question, consequently, has been one of evidence to support a belief of—in many cases a bare suspicion of—enemy destination, or occasionally of enemy origin of the goods involved. Whether this evidence should be obtained by search at sea before the vessel or cargo is taken into port, and what the character of the evidence should be, which is necessary to justify the detention, are the points to which I direct Your Excellency's attention.

(4) In regard to search at sea, an examination of the instructions issued to naval commanders of the United States, Great Britain, Russia, Japan, Spain, Germany, and France from 1888 to the beginning of the present war shows that search in port was not contemplated by the Government of any of these countries. On the contrary, the context of the respective instructions shows that search at sea was the procedure expected to be followed by the commanders. All of these instructions impress upon the naval officers the necessity of acting with the utmost moderation—and in some cases commanders are specifically instructed—in exercising the right of visit and search, to avoid undue deviation of the vessel from her course.

(5) An examination of the opinions of the most eminent text writers on the laws of nations shows that they give practically no consideration to the question of search in port, outside of examination in the course of regular prize court proceedings.

(6) The assertion by His Majesty's Government that the position of the United States in relation to search at sea is inconsistent with its practice during the American Civil War is based upon a misconception. Irregularities there may have been at the beginning of that war, but a careful search of the records of this Government as to the practice of its commanders shows conclusively that there were no instances when vessels were brought into port for search prior to instituting prize court proceedings, or that captures were made upon other grounds than, in the words of the American note of November 7, 1914, "evidence found on the ship under investigation and not upon circumstances ascertained from external sources." A copy of the instruction issued to American naval officers on Aug. 18, 1862, for their guidance during the Civil War is appended.

(7) The British contention that "modern conditions" justify bringing vessels into port for search is based upon the size and seaworthiness of modern carriers of commerce and the difficulty of uncovering the real transaction in the intricate trade operations of the present day. It is believed that commercial transactions of the present time, hampered as they are by censorship of telegraph and postal communication on the part of belligerents, are essentially no more complex and disguised than in the wars of recent years, during which the practice of obtaining evidence in port to determine whether a vessel should be held for prize proceedings was not adopted. The effect of the size and seaworthiness of merchant vessels upon their search at sea has been submitted to a board of naval experts, which reports that:

"At no period in history has it been considered necessary to remove every package of a ship's cargo to establish the character and nature of her trade or the service on which she is bound, nor is such removal necessary. * * *

"The facilities for boarding and inspection of modern ships are in fact greater than in former times, and no difference, so far as the necessities of the case are concerned, can be seen between the search of a ship of a thousand tons and one of twenty thousand tons—except possibly a difference in time—for the purpose of establishing fully the char-

acter of her cargo and the nature of her service and destination. * * * This method would be a direct aid to the belligerents concerned in that it would release a belligerent vessel overhauling the neutral from its duty of search and set it free for further belligerent operations."

(8) Turning to the character and sufficiency of the evidence of the contraband nature of shipments to warrant the detention of a suspected vessel or cargo for prize proceedings, it will be recalled that when a vessel is brought in for adjudication courts of prize have heretofore been bound by well-established and long-settled practice to consider at the first hearing only the ship's papers and documents, and the goods found on board, together with the written replies of the officers and seamen to standing interrogatories taken under oath, alone and separately, as soon as possible and without communication with or instruction by counsel, in order to avoid possibility of corruption and fraud.

(9) Additional evidence was not allowed to be introduced except upon an order of the court for "further proof," and then only after the cause had been fully heard upon the facts already in evidence or when this evidence furnished a ground for prosecuting the inquiry further. This was the practice of the United States courts during the War of 1812, the American Civil War, and the Spanish-American War, as is evidenced by the reported decisions of those courts, and has been the practice of the British prize courts for over a century. This practice has been changed by the British prize court rules adopted for the present war by the Order in Council of August 5. Under these new rules there is no longer a "first hearing" on the evidence derived from the ship, and the prize court is no longer precluded from receiving extrinsic evidence for which a suggestion has not been laid in the preparatory evidence. The result is, as pointed out above, that innocent vessels or cargoes are now seized and detained on mere suspicion, while efforts are made to obtain evidence from extraneous sources to justify the detention and the commencement of prize proceedings. The effect of this new procedure is to subject traders to risk of loss, delay, and expense so great and so burdensome as practically to destroy much of the export trade of the United States to neutral countries of Europe.

(10) In order to place the responsibility for the delays of vessels and cargoes upon American claimants, the Order in Council of October 29, 1914, as pointed out in the British note of February 10, seeks to place the burden of proof as to the noncontraband character of the goods upon the claimant in cases where the goods are consigned to order, or the consignee is not named or the consignee is within enemy territory. Without admitting that the *onus probandi* can rightfully be made to rest upon the claimant in these cases, and is sufficient for the purposes of this state to point out that the three classes in cases indicated in the Order in Council of October 29 apply to only a few of the many seizures or detentions which have actually been made by British authorities.

(11) The British contention that in the American Civil War the captor was allowed to establish enemy destination by "all the evidence at his disposal," citing the *Bermuda* case (3 Wallace, 515), is not borne out by the facts of that case. The case of the *Bermuda* was one of "further proof," a proceeding not to determine whether the vessel should be detained and placed in a prize court, but whether the vessel, having been placed in prize court, should be restored or condemned. The same ruling was made in the case of the *Sir William Peel* (5 Wallace, 517). These cases, therefore, can not be properly cited as supporting the course of a British captor in taking a vessel into port there to obtain extrinsic evidence to justify him in detaining the vessel for prize proceedings.

(12) The further contention that the greatly increased imports of neutral countries, adjoining Great Britain's enemies, raise a presumption that certain commodities, such as cotton, rubber, and others more or less useful for military purposes, though destined for those countries, are intended for re-exportation to the belligerents who can not import them directly, and that this fact justifies the detention for the purpose of examination of all vessels bound for the ports of those neutral countries, notwithstanding the fact that most of the articles of trade have been placed on the embargo lists of those countries, can not be accepted as laying down a just or legal rule of evidence. Such a presumption is too remote from the facts and offers too great opportunity for abuse by the belligerent, who could, if the rule were adopted, entirely ignore neutral rights on the high seas and prey with impunity upon neutral commerce. To such a rule of legal presumption this Government can not accede, as it is opposed to those fundamental principles of justice which are the foundation of the jurisprudence of the United States and Great Britain.

(13) Before passing from the discussion of this contention as to the presumption raised by increased importations to neutral countries, this Government directs attention to the fact that His Majesty's Government admit that the British exports to those countries have also materially increased since the present war began. Thus Great Britain concededly shares in creating a condition which is relied upon as a sufficient ground to justify the interception of American goods destined to neutral European ports. If

British exports to those ports should be still further increased, it is obvious that, under the rule of evidence contended for by the British Government, the presumption of enemy destination could be applied to a greater number of American cargoes, and American trade would suffer to the extent that British trade benefited by the increase. Great Britain can not expect the United States to submit to such manifest injustice or to permit the rights of its citizens to be so seriously impaired.

(14) When goods are clearly intended to become incorporated in the mass of merchandise for sale in a neutral country it is an unwarranted and inquisitorial proceeding to detain shipments for examination as to whether those goods are ultimately destined for the enemy's country or use. Whatever may be the conjectural conclusions to be drawn from trade statistics, which, when stated by value, are of uncertain evidence as to quantity, the United States maintains the right to sell goods into the general stock of a neutral country and denounces as illegal and unjustifiable any attempt of a belligerent to interfere with that right, on the ground that it suspects that the previous supply of such goods in the neutral country, which the imports renew or replace, has been sold to an enemy. That is a matter with which the neutral vendor has no concern and which can in no way affect his rights of trade. Moreover, even if goods listed as conditional contraband are destined to an enemy country through a neutral country, that fact is not in itself sufficient to justify their seizure.

(15) In view of these considerations the United States, reiterating its position in this matter, has no other course but to contest seizures of vessels at sea upon conjectural suspicion and the practice of bringing them into port for the purpose, by search or otherwise, of obtaining evidence, for the purpose of justifying prize proceedings, of the carriage of contraband or of breaches of the Order in Council of March 11. Relying upon the regard of the British Government for the principles of justice so frequently and uniformly manifested prior to the present war, this Government anticipates that the British Government will instruct their officers to refrain from these vexatious and illegal practices.

(16) *Second.* The Government of the United States further desires to direct particular attention to the so-called "blockade" measures imposed by the Order in Council of March 11. The British note of July 23, 1915, appears to confirm the intention indicated in the note of March 15, 1915, to establish a blockade so extensive as to prohibit trade with Germany or Austria-Hungary, even through the ports of neutral countries adjacent to them. Great Britain, however, admits that it should not, and gives assurances that it will not, interfere with trade with the countries contiguous to the territories of the enemies of Great Britain. Nevertheless, after over six months' application of the "blockade" order, the experience of American citizens has convinced the Government of the United States that Great Britain has been unsuccessful in her efforts to distinguish between enemy and neutral trade. Arrangements have been made to create in these neutral countries special consignees, or consignment corporations, with power to refuse shipments and to determine when the state of the country's resources requires the importation of new commodities. American commercial interests are hampered by the intricacies of these arrangements, and many American citizens justly complain that their *bona fide* trade with neutral countries is greatly reduced as a consequence, while others assert that their neutral trade, which amounted annually to a large sum, has been entirely interrupted.

(17) It makes this practice even more harassing to neutral traders that the British authorities require a consignor to prove that his shipments are not bound to an enemy of Great Britain, even when the articles are on the embargo list of the neutral country to which they are destined, and that notwithstanding the assertion in the last British note that interference with such trade by a belligerent can only take place "provided, of course, that he (the belligerent) can establish" that the commerce is with the enemy.

(18) While the United States Government was at first inclined to view with leniency the British measures which were termed in the correspondence, but not in the Order in Council of March 11, a "blockade," because of the assurances of the British Government that inconvenience to neutral trade would be minimized by the discretion left to the courts in the application of the Order in Council and by the instructions which it was said would be issued to the administrative and other authorities having to do with the execution of the so-called "blockade" measures, this Government is now forced to the realization that its expectations, which were fully set forth in its note of March 30, were based on a misconception of the intentions of the British Government. Desiring to avoid controversy and in the expectation that the administration of the Order in Council would conform to the established rules of international law, this Government has until now reserved the question of the actual validity of the Order in Council of March 11, in so far as it is considered by the Government of Great Britain to establish a blockade within the meaning of that term as understood in the law and the practice of nations; but

in the circumstances now developed it feels that it can no longer permit the validity of the alleged blockade to remain unchallenged.

(19) The Declaration of Paris in 1856, which has been universally recognized as correctly stating the rule of international law as to blockade, expressly declares that "blockades, in order to be binding, must be effective; that is to say, maintained by force sufficient really to prevent access to the coast of the enemy." The effectiveness of a blockade is manifestly a question of fact. It is common knowledge that the German coasts are open to trade with the Scandinavian countries and that German naval vessels cruise both in the North Sea and the Baltic and seize and bring into German ports neutral vessels bound for Scandinavian and Danish ports. Furthermore, from the recent placing of cotton on the British list of contraband of war, it appears that the British Government have themselves been forced to the conclusion that the blockade is ineffective to prevent shipments of cotton from reaching their enemies, or else that they are doubtful as to the legality of the form of blockade which they have sought to maintain.

(20) Moreover, it is an essential principle which has been universally accepted that a blockade must apply impartially to the ships of all nations. This was set forth in the Declaration of London, is found in the prize rules of Germany, France, and Japan, and has long been admitted as a basic principle, of the law of blockade. This principle, however, is not applied in the present British "blockade," for, as above indicated, German ports are notoriously open to traffic with the ports of Denmark, Norway, and Sweden. So strictly has this principle been enforced in the past that in the Crimean War the Judicial Committee of the Privy Council on appeal laid down, that if belligerents themselves trade with blockade ports they can not be regarded as effectively blockaded. (*The Franciska*, Moore, P. C., 56.) This decision has special significance at the present time, since it is a matter of common knowledge that Great Britain exports and re-exports large quantities of merchandise to Norway, Sweden, Denmark, and Holland, whose ports, so far as American commerce is concerned, she regards as blockaded. In fact, the British note of August 13 itself indicates that the British exports of many articles, such as cotton, lubricating oil, tobacco, cocoa, coffee, rice, wheat flour, barley, spices, tea, copra, etc., to these countries have greatly exceeded the British exports of the same articles for the corresponding period of 1914. The note also shows that there has been an important British trade with these countries in many other articles, such as machinery, beef, butter, cotton waste, etc.

(21) Finally, there is no better settled principle of the law of nations than that which forbids the blockade of neutral ports in time of war. The Declaration of London, though not regarded as binding upon the signatories because not ratified by them, has been expressly adopted by the British Government without modification as to blockade in the British Order in Council of October 29, 1914. Article 18 of the Declaration declares specifically that "The blockading forces must not bar access to neutral ports or coasts." This is, in the opinion of this Government, a correct statement of the universally accepted law as it exists to-day and as it existed prior to the Declaration of London. The meaning of this statement is elucidated by Mr. Renault in the report of the drafting committee upon the convention, in which he states:

"This rule has been thought necessary the better to protect the commercial interests of neutral countries; it completes article 1, according to which a blockade must not extend beyond the ports and coasts of the enemy, which implies that, as it is an operation of war, it must not be directed against a neutral port, *in spite of the importance to a belligerent of the part played by that port in supplying his adversary.*"

As the conference assembled at London upon the invitation of the British Government, it is important to recall the instruction of Sir Edward Grey to the British delegates, "setting out the views of his Majesty's Government, founded on the decisions of the British courts," in which he says:

"A blockade must be confined to the ports and coast of the enemy, but it may be instituted of one port or of several ports or of the whole of the seaboard of the enemy. It may be instituted to prevent the ingress only or egress only, or both."

He added:

"Where the ship does not intend to proceed to the blockaded port, the fact that goods on board are to be sent on by sea or by inland transport is no ground for condemnation."

In support of this announcement, Sir Edward Grey referred to several decisions of British prize courts, among which an early one of 1801 held that goods shipped from London to Emden, thence inland or by canal to Amsterdam, then blockaded by sea, were not subject to condemnation for breach of blockade. (*Jonge Pieter*, 4 C. R. 79.) This has been the rule for a century, so that it is scarcely necessary to recall that the Matamoras cases, well known to the British Government, support the same rule, that neutral ports may not be blockaded, though "trade with unrestricted inland commerce between such a

port and the enemy's territory, impairs undoubtedly, and very seriously impairs, the value of a blockade of the enemy's coast."

(22) Without mentioning the other customary elements of a regularly imposed blockade, such as notification of the particular coast line invested, the imposition of the penalty of confiscation, etc., which are lacking in the present British "blockade" policy, it need only be pointed out that, measured by the three universally conceded tests above set forth, the present British measures cannot be regarded as constituting a blockade in law, in practice, or in effect.

(23) It is incumbent upon the United States Government, therefore, to give the British Government notice that the blockade, which they claim to have instituted under the Order in Council of March 11, cannot be recognized as a legal blockade by the United States.

(24) Since the Government of Great Britain has laid much emphasis on the ruling of the Supreme Court of the United States in the *Springbok* case, that goods of contraband character seized while going to the neutral port of Nassau, though actually bound for the blockaded ports of the south, were subject to condemnation, it is not inappropriate to direct attention to the British view of this case in England prior to the present war, as expressed by Sir Edward Grey in his instructions to the British delegates to the London Conference in 1908:

"It is exceedingly doubtful whether the decision of the Supreme Court was in reality meant to cover a case of blockade-running in which no question of contraband arose. Certainly if such was the intention, the decision would *pro tanto* be in conflict with the practice of the British courts. His Majesty's Government sees no reason for departing from that practice, and you should endeavor to obtain general recognition of its correctness."

It may be pointed out also that the circumstances surrounding the *Springbok* case were essentially different from those of the present day to which the rule laid down in that case is sought to be applied. When the *Springbok* case arose, the ports of the Confederate States were effectively blockaded by the naval forces of the United States, though no neutral ports were closed, and a continuous voyage through a neutral port required an all-sea voyage terminating in an attempt to pass the blockading squadron.

(25) *Third.* It appears to be the position of Great Britain that if, as the United States alleges, American citizens or American interests are directly and adversely affected by the British policies of contraband and nonintercourse, resulting in interference with ships and cargoes, they should seek redress in the prize courts which the British Government have established, and that, pending the exhaustion of such legal remedies with the result of a denial of justice, the British Government "can not continue to deal through the diplomatic channels with the individual cases."

(26) It is declared that this was the course followed by the United States during the American Civil War and the Spanish War, and that both countries have supported the practice by allowing their prize court decisions, when shown to be unjust or inadequate, to be reviewed by an international tribunal, as was done under the treaties of 1794 and 1871. The ground upon which this contention is put forth, and the results which would follow, if the course of procedure suggested were accepted, give the impression that His Majesty's Government do not rely upon its soundness or strength. Nevertheless, since it has been advanced, I can not refrain from presenting certain considerations which will show that the proposed course embodies the form rather than the substance of redress. The cases which the British Government would have claimants present to their prize courts are essentially different from cases arising wholly within the jurisdiction of a foreign country. They result from acts committed by the British naval authorities upon the high seas, where the jurisdiction over neutral vessels is acquired solely by international law. Vessels of foreign nationality flying a neutral flag and finding their protection in the country of that flag, are seized without facts warranting a reasonable suspicion that they are destined to blockaded ports of the enemy or that their cargoes are contraband, although the possession of such facts is, by international law, essential to render a seizure legal. The officers appear to find their justification in the Orders in Council and regulations of the British Government, in spite of the fact that in many of the present cases the Orders in Council and the regulations for their enforcement are themselves complained of by claimants as contrary to international law. Yet the very courts which, it is said, are to dispense justice to dissatisfied claimants, are bound by the Orders in Council. This is unmistakably indicated to be the case in the British note of July 31, which states that—

"British prize courts 'according to the ancient form of commission under which they sit are to determine cases according to the course of admiralty and the law of nations and the statutes, rules, and regulations for the time being in force in that behalf.'"

This principle, the note adds, has recently been announced and adhered to by the

British prize court in the case of the *Zamora*. It is manifest therefore, that, if prize courts are bound by the laws and regulations under which seizures and detentions are made, and which claimants allege are in contravention of the law of nations, those courts are powerless to pass upon the real ground of complaint or to give redress for wrongs of this nature. Nevertheless, it is seriously suggested that claimants are free to request the prize court to rule upon a claim of conflict between an Order in Council and a rule of international law. How can a tribunal fettered in its jurisdiction and procedure by municipal enactments declare itself emancipated from their restrictions and at liberty to apply the rules of international law with freedom? The very laws and regulations which bind the court are now matters of dispute between the Government of the United States and that of His Britannic Majesty. If Great Britain followed, as she declares that she did, the course of first referring claimants to local remedies in cases arising out of American wars, it is presumed that she did so because of her knowledge or understanding that the United States had not sought to limit the jurisdiction of its courts of prize by instructions and regulations violative of the law and practice of nations, or open to such objection.

(27) The British note of February 10 states that the British Government in the American Civil War, "in spite of remonstrances from many quarters, placed full reliance on the American prize courts to grant redress to the parties interested in cases of alleged wrongful capture by American ships of war and put forward no claim until the opportunity for redress in those countries had been exhausted."

The Government of the United States recalls that during the progress of that war Great Britain, in several instances, demanded through diplomatic channels damages for seizures and detentions of British ships alleged to have been made without legal justification. Among these may be mentioned the cases of the *Magicienne*, the *Don Jose*, the *Labuan*, and the *Saxon*. Two of these cases were, at the time the demands were made, before American prize courts for adjudication. It is understood also that during the Boer War, when British authorities seized the German vessels, the *Hertzog*, the *General*, and the *Bundesrath*, and released them without prize proceedings, compensation for damages suffered was arranged through diplomatic channels.

(28) There is, furthermore, a real and far-reaching injury for which prize courts offer no means of reparation. It is the disastrous effect of the methods of the allied Governments upon the general right of the United States to enjoy its international trade free from unusual and arbitrary limitations imposed by belligerent nations. Unwarranted delay and expense in bringing vessels into port for search and investigation upon mere suspicion has a deterrent effect upon trade ventures, however lawful they may be, which can not be adequately measured in damages. The menace of interference with legal commerce causes vessels to be withdrawn from their usual trade routes and insurance on vessels and cargoes to be refused, while exporters for the same reason are unable or unwilling to send their goods to foreign markets and importers dare not buy commodities abroad because of fear of their illegal seizure or because they are unable to procure transportation. For such injuries there can be no remedy through the medium of courts established to adjust claims for goods detained or condemned. For specific injuries suffered by private interests prize courts, if they are free to apply the law of nations, might mete out an adequate indemnity, but for the injury to the trade of a nation by the menace of unwarranted interference with its lawful and established pursuit there can manifestly be found no remedy in the prize courts of Great Britain, to which United States citizens are referred for redress.

(29) There is another ground why American citizens can not submit their wrongs arising out of undue detentions and seizures to British prize courts for reparation which I can not pass over unnoticed. It is the manner in which British courts obtain jurisdiction of such cases. The jurisdiction over merchant vessels on the high seas is that of the nation whose flag it rightfully flies. This is a principle of the law and practice of nations fundamental to the freedom of the high seas. Municipal enactments of a belligerent power can not confer jurisdiction over or establish rules of evidence governing the legality of seizures of vessels of neutral nationality on the high seas. International law alone controls the exercise of the belligerent right to seize and detain such vessels. Municipal laws and regulations in violation of the international rights of another nation, can not be extended to the vessels of the latter on the high seas so as to justify a belligerent nation bringing them into its ports, and, having illegally brought them within its territorial jurisdiction, compelling them to submit to the domestic laws and regulations of that nation. Jurisdiction obtained in such a manner is contrary to those principles of justice and equity which all nations should respect. Such practice should invalidate any disposition by a municipal court of property thus brought before it. The Government of the United States has, therefore, viewed with surprise and concern the attempt of His Majesty's Government to

confer upon the British prize courts jurisdiction by this illegal exercise of force in order that these courts may apply to vessels and cargoes of neutral nationalities seized on the high seas, municipal laws and orders which can only rightfully be enforceable within the territorial waters of Great Britain, or against vessels of British nationality when on the high seas.

(30) In these circumstances the United States Government feels that it can not reasonably be expected to advise its citizens to seek redress before tribunals which are, in its opinion, unauthorized by the unrestricted application of international law to grant reparation, nor to refrain from presenting their claims directly to the British Government through diplomatic channels.

(31) This Government is advised that vessels and cargoes brought in for examination prior to prize proceedings are released only upon condition that costs and expenses incurred in the course of such unwarranted procedure, such as pilotage, wharfage, demurrage, harbor dues, warehousing, unloading costs, etc., be paid by the claimants or on condition that they sign a waiver of right to bring subsequent claims against the British Government for these exactions. This Government is loathe to believe that such ungenerous treatment will continue to be accorded American citizens by the Government of His Britannic Majesty, but in order that the position of the United States Government may be clearly understood, I take this opportunity to inform Your Excellency that this Government denies that the charges incident to such detentions are rightfully imposed upon innocent trade or that any waiver of indemnity exacted from American citizens under such conditions of duress can preclude them from obtaining redress through diplomatic channels or by whatever other means may be open to them.

(32) Before closing this note, in which frequent reference is made to contraband traffic and contraband articles, it is necessary, in order to avoid possible misconstruction, that it should be clearly understood by His Majesty's Government that there is no intention in this discussion to commit the Government of the United States to a policy of waiving any objections which it may entertain as to the propriety and right of the British Government to include in their list of contraband of war certain articles which have been so included. The United States Government reserves the right to make this matter the subject of a communication to His Majesty's Government at a later day.

(33) I believe it has been conclusively shown that the methods sought to be employed by Great Britain to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification; that the blockade, upon which such methods are partly founded, is ineffective, illegal, and indefensible: that the judicial procedure offered as a means of reparation for an international injury is inherently defective for the purpose; and that in many cases jurisdiction is asserted in violation of the law of nations. The United States, therefore, can not submit to the curtailment of its neutral rights by these measures, which are admittedly retaliatory, and therefore illegal, in conception and in nature, and intended to punish the enemies of Great Britain for alleged illegalities on their part. The United States might not be in a position to object to them if its interests and the interests of all neutrals were unaffected by them, but, being affected, it can not with complacency suffer further subordination of its rights and interests to the plea that the exceptional geographic position of the enemies of Great Britain require or justify oppressive and illegal practices.

(34) The Government of the United States desires, therefore, to impress most earnestly upon His Majesty's Government that it must insist that the relations between it and His Majesty's Government be governed, not by a policy of expediency, but by those established rules of international conduct upon which Great Britain in the past has held the United States to account when the latter nation was a belligerent engaged in a struggle for national existence. It is of the highest importance to neutrals not only of the present day, but of the future that the principles of international right be maintained unimpaired.

(35) This task of championing the integrity of neutral rights, which have received the sanction of the civilized world against the lawless conduct of belligerents arising out of the bitterness of the great conflict which is now wasting the countries of Europe, the United States unhesitatingly assumes, and to the accomplishment of that task it will devote its energies, exercising always that impartiality which from the outbreak of the war it has sought to exercise in its relations with the warring nations.

I inclose as supplements to this instruction the United States Navy Order of August 18, 1862, and a statement regarding vessels detained by British authorities.

These two documents should be transmitted as inclosures in your note to Sir Edward Grey.

I am, etc.,

ROBERT LANSING.

Inclosures:

United States Navy Order of August 18, 1862, and Statement regarding vessels detained by British authorities.

APPENDIX NO. 1.

Instructions of the Secretary of the Navy to flag officers commanding squadrons and officers commanding cruisers, relative to the right of search.

NAVY DEPARTMENT, August 18, 1862.

SIR: Some recent occurrences in the capture of vessels, and matters pertaining to the blockade, render it necessary that there should be a recapitulation of the instructions heretofore from time to time given, and also of the restrictions and precautions to be observed by our squadrons and cruisers.

It is essential, in the remarkable contest now waging, that we should exercise great forbearance, with great firmness, and manifest to the world that it is the intention of our Government, while asserting and maintaining our own rights, to respect and scrupulously regard the rights of others. It is in this view that the following instructions are explicitly given:

First. That you will exercise constant vigilance to prevent supplies of arms, munitions, and contraband of war from being conveyed to the insurgents, but that under no circumstances will you seize any vessel within the waters of a friendly nation.

Secondly. That, while diligently exercising the right of visitation on all suspected vessels, you are in no case authorized to chase and fire at a foreign vessel without showing your colors and giving her the customary preliminary notice of a desire to speak and visit her.

Thirdly. That when that visit is made, the vessel is not then to be seized without a search carefully made, so far as to render it reasonable to believe that she is engaged in carrying contraband of war for or to the insurgents, and to their ports directly or indirectly by transshipment, or otherwise violating the blockade; and that if, after visitation and search, it shall appear to your satisfaction that she is in good faith and without contraband, actually bound and passing from one friendly or so-called neutral port to another, and not bound or proceeding to or from a port in the possession of the insurgents, then she can not be lawfully seized.

Fourthly. That, to avoid difficulty and error in relation to papers which strictly belong to the captured vessel, and mails that are carried, or parcels under official seals, you will, in the words of the law, "preserve all the papers and writings found on board and transmit the whole of the originals unmutated to the judge of the district to which such prize is ordered to proceed; but official seals, or locks, or fastenings of foreign authorities, are in no case, nor on any pretext, to be broken, or parcels covered by them read by any naval authorities, but all bags or other things covering such parcels, and duly seized and fastened by foreign authorities, will be, in the discretion of the United States officer to whom they may come delivered to the consul, commanding naval officer, or legation of the foreign government, to be opened, upon the understanding that whatever is contraband or important as evidence concerning the character of a captured vessel will be remitted to the prize court, or to the Secretary of State at Washington, or such sealed bag or parcels may be at once forwarded to this Department, to the end that the proper authorities of the foreign Government may receive the same without delay.

You are specially informed that the fact that a suspicious vessel has been indicated to you as cruising in any limit which has been prescribed by this Department does not in any way authorize you to depart from the practice of the rules of visitation, search, and capture prescribed by the law of nations.

Very respectfully,

GIDEON WELLES,
Secretary of the Navy.

APPENDIX NO. 2.

Statement regarding vessels detained by British authorities.

September 10, 1915.

(1) *Vessels whose cargoes and papers have been of such a character as to require but brief time for examination, have been held in British ports, according to this Government's information, for prolonged periods, in some instances for more than a month, and then released without the institution of prize court proceedings.*

The steamer *Chester*, which sailed from Baton Rouge for Rotterdam with a cargo of illuminating oil, was taken into Falmouth, September 21, 1914, and held until November 4 of that year.

The steamer *Ocean*, carrying the same kind of a cargo, from New York to Rotterdam, was taken into Plymouth, September 23, 1914, and similarly released November 5.

The steamer *Charlois* and the steamer *New York*, carrying similar cargoes, were taken into British ports on September 30 and October 12, 1914, respectively and similarly released on October 27.

The steamers *American* and *Rotterdam*, carrying cargoes of oil to Rotterdam, were also detained under conditions similar to those of the vessels just mentioned in the fall of 1914.

The steamer *Christian Knudsen*, carrying a cargo of oil in bulk, consigned to a Danish corporation in Copenhagen, was brought into the port of Kirkwall, detained for 11 days and then released.

Vessels carrying oil from the United States to long-established markets in Scandinavian countries have repeatedly been detained without being sent to the prize court for adjudication. Among them may be mentioned the *Brindilla*, the *Platuria*, the *Wico*, the *Polarine*, the *Pioneer*; the *Llama*, the *Muskogee*, and the *John D. Rockefeller*.

The steamer *Denver*, which carried a full cargo of cotton from Norfolk to Bremen and which had been loaded under the supervision of a British consular officer, was taken into Kirkwall in January last, as the Department was informed by the British Government, just to examine her papers and to verify her cargo.

The *George W. Hawley* was held for a month because she refused to comply with a requirement of the British authorities to discharge a single shipment, the illegal destination of which does not appear to have been disclosed by any evidence. The vessel carried a mixed cargo, including a shipment of oil. The British authorities insisted that the vessel should discharge the oil, which, the shipper represented, was consigned to one of its long-established agents in Sweden. Finally it was announced that the vessel would be released as an act of grace.

The steamer *Wico* was held by the British authorities last March. This Government was advised that the British Minister at Stockholm had informed the Swedish Foreign Office that the vessel had arrived in a British port with a full cargo of oil for a concern in Stockholm, and that, in view of the recent seizure by a German man-of-war of the steamship *Bryssel* and her cargo, the British Government required complete assurances from the Swedish Government before the *Wico* could be allowed to proceed to destination, that she would not share the fate of the *Bryssel*.

Subsequently this Government was informed that the vessel had been allowed to proceed, but that the British Government felt that, in the event of further cargoes going to Stockholm being seized by German ships, the whole question of permitting oil cargoes to proceed to that destination would have to be seriously reconsidered.

The steamer *Llama*, carrying a cargo of oil to a Scandinavian port, was taken into Kirkwall and subsequently released on June 5 last. After departing from Kirkwall the ship was again arrested on June 6, and although the officer of the war vessel which seized the *Llama* apparently was shown the ship's release papers, he placed a prize crew on board and ordered the vessel to Aberdeen and thence to Leith, where she was finally released on June 12, although she could not proceed until June 15, owing to a shortage of coal.

(2) *Vessels have been held until they have reconsigned their cargoes to a consignee in a neutral country designated by the British Government.*

The steamer *Seguranca*, which carried a general cargo from New York to the Netherlands, was detained at a great loss to the owners of the vessel and to the shippers in a British port for the greater part of last April, in order that her cargo might be reconsigned to the Netherlands Oversea Trust. The manifest showed that the entire cargo was consigned to named consignees in the Netherlands and was accompanied by a certificate of the British consul general in New York, stating that the loading was supervised by his inspector and that the vessel contained no cargo other than that specified in the

manifest. A large part of the cargo, consisting of fresh fruit stored in the hold of the vessel, was subject to decay with great rapidity.

A similar requirement was imposed on the steamer *F. J. Lisman*, which during last June was detained at London. It appears that, after a prolonged detention of the ship of over a month, representatives of the shippers were compelled to discharge both contraband and non-contraband articles, and that the captain and the shippers, finding their efforts to comply with the requirements of the British authorities hopeless, abandoned the voyage.

The steamers *A. A. Raven* and *Vitalia*, carrying articles listed as conditional contraband, were detained in a British port in March last until the goods shipped to specified consignees in Holland could be consigned to the Netherlands Oversea Trust.

The steamer *Neches* was detained last May for about two weeks in order that a shipment of cotton destined for Rotterdam might be consigned to the Netherlands Oversea Trust.

The steamer *Zzandjik* was detained last June, as the Department was informed, while the British minister at The Hague made inquiries as to whether the Netherlands Oversea Trust had accepted the consignment of the cargo.

(3) *Detentions have been made without evidence amounting to probable cause.*

The steamer *Annam*, which was detained at Kirkwall last April, carried a cargo of food products from the United States to Swedish ports. She was detained owing to a "suspicion," as the British Government stated, that a part of its cargo was destined for Germany.

The steamer *Dronning Olga* was detained at Kirkwall in April last and the cargo, which consisted of cotton and food products, was placed in the prize court on the ground, as the Department was informed by the British Government, that it was "believed" that it was ultimately destined for Germany.

The steamer *Hilding*, which sailed from New York for Copenhagen with a general cargo consisting largely of food products, was seized and taken into Leith last April, and this Government was informed that the cargo had been seized as contraband with the expectation of holding it under the Order in Council of March 11, 1915, if the charge that the goods were contraband should fail.

Numerous similar instances might be cited.

The steamers *Christian Knudsen* and *Platuria*, carrying oil from New York to Denmark, were detained by the British authorities last Fall, taken into British ports, and held until the British Government, as they stated, could make an investigation as to the destination of the cargoes. Furthermore, this Government was informed that the vessels had been detained pending the receipt of guarantees from Denmark against the exportation of the cargoes and that the orders were given for the release of the vessels on the receipt of satisfactory guarantees.

The steamer *Brindilla*, which sailed from New York, October 13 last, with a cargo of oil for Alexandria, was taken into port at Halifax and later released, as the Department was informed, when the British authorities received information that the ship's cargo was expected at Alexandria.

The steamer *Ambra* was taken into a British port in July last, and this Government was informed that this vessel was held pending inquiries that had been instituted concerning destination of certain items of her cargo. About a week later the vessel was allowed to proceed.

In July last this Government was informed by the British Government that the prolonged detention of the oil steamers *Polarine*, *Platuria*, and *Pioneer* was due to the fact that His Majesty's Government's attention had latterly been drawn to the very large quantities of oil which had been shipped to Scandinavian countries during the last few months; that there had been every reason to suspect that some of the oil was destined for enemy countries; and that the arrival of the steamers in quick succession necessitated the institution of inquiries as to the ultimate destination of the oil.

The owners of these vessels and their cargoes complained to the Government of the United States against their detention, stating that the vessels carried the usual cargoes consigned in good faith to long-established subsidiaries in neutral countries, and further representing that, since supplies from Russia and Roumania had been prevented from entering Scandinavian ports, a large increase of business with them had been expected, but it had been found that during the first five months of the year 1915 total shipments of all petroleum products to these countries were less than for the same period last year, although business in previous years had steadily increased.

(4) *Vessels have been held, according to statements of the British Government, because of the manner in which shipments have been consigned.*

The steamer *Einerjarl* was brought into Kirkwall last May and its cargo of cottonseed cake, shipped from Newport News to Denmark, which the shippers represented was

to be used exclusively for consumption in Denmark, was seized. This Government was informed that the cargo was discharged because it was consigned "to order."

The steamers *Alfred Nobel*, *Bjorstjerne Bjornsen*, and *Friedland* were seized last Autumn because their cargoes were consigned "to order."

The shipments on the steamers *America* and *Artemis* have been placed in prize court under the Order in Council of March 11, 1915, because, the goods being consigned by the shippers to themselves, there was no guarantee of their ultimate destination.

(5) *Goods have been seized by the British Government on the ground, as this Government has been informed, that the country to which they were shipped had not prohibited their export.*

In the fall of the year 1914 copper shipped from the United States to Sweden on the steamers *Francisco*, *Antares*, *Idaho*, *Tyr*, and *Toronto* was seized by the British authorities, because, as the British Government stated, the Swedish Government had not yet prohibited the re-exportation of copper from Sweden.

A consignment of rubber on the Swedish ship *Zamore* had been placed in prize court last January, because, as the British Government stated, of the absence of a comprehensive prohibition on the exportation of rubber in all its forms from Denmark.

(6) *The British authorities have repeatedly seized articles classified as contraband, articles classified as conditional contraband, as well as noncontraband goods, shipped to Scandinavian countries, to the Netherlands, and to Italy, then neutral, although the re-exportation of such commodities from these countries had been forbidden.*

In December last the steamer *Tellus* was ordered to discharge a shipment of copper shipped from New York directly to a consignee in Milan, Italy, although by an Italian decree of November 13, 1914, the exportation of goods shipped in this manner was forbidden.

The steamer *Joseph W. Fordney* was seized 4 miles off the coast of Norway and, in charge of a prize crew, brought into Kirkwall April 8 last. The ship's manifest showed that the cargo consisted entirely of cattle fodder consigned to a person in Malmo, Sweden. It appeared from information presented to this Government, that an affidavit regarding the character and destination of the cargo, made by the shipper of the entire cargo, was attached to the bill of lading, and that this affidavit contained a certification by the British consul general and the Swedish consul, and also a statement by the latter to the effect that the exportation from Sweden of the goods of which the cargo consisted was prohibited. The vessel was brought into a British port and her cargo discharged. This Government was informed by the British Government that, apart from the uncertainty of the address of the consignee of the cargo of this vessel, His Majesty's Government had evidence that the cargo was not destined for *bona fide* Swedish consumption but was intended for Germany.

Numerous other similar instances might be cited, including those of the detention of vessels carrying oil to Scandinavian ports which have been mentioned.

(7) *Detentions have been made pending assurances that embargoed goods would be allowed to pass through a neutral country to Great Britain's allies.*

The steamer *Leelanaw*, which carried a cargo of cotton from Galveston to Gothenburg for transshipment to Moscow, was detained in a British port early in June last. Relative to the detention of this vessel the British Foreign Office said:

"In view of the fact that cotton has now been placed on the Swedish prohibition of export list, His Majesty's Government have not considered it advisable to allow this large cargo to go on to Gothenburg until they are assured that there is a fair chance of it reaching its declared ultimate destination."

After nearly a month's detention the vessel was released on the understanding that she should proceed directly to Archangel.

The steamers *Jentland* and *Syrius* appear to have been recently detained under circumstances similar to those of the steamer *Leelanaw*.

(8) *From time to time this Government has been informed of the seizure of cargoes on the ground that consignees have been known to trade with the enemy or because they were suspected of doing so.*

In January last this Government was advised by the British Government that the British Government had been compelled to place in prize court a consignment of rubber on board the Swedish vessel *Zamora*, the consignee of these goods being regarded with grave suspicion, and there being reason to believe that the ultimate destination of the rubber was the enemy forces.

(9) *Vessels have been seized and brought into port and have been required by the British authorities to pay pilotage, harbor, unloading, warehouse, storage or other dues, costs, and expenses in advance of a judicial determination of the validity of the seizure of vessel or cargo.*

Instances of such treatment of vessels may be found in the cases of the detention of

the steamer *Neches* last May, the *Ogeechee*, which was seized last April, and the *Antilla*, which was seized in February last and subjected to a prolonged detention. In the case of the last mentioned ship, it appears, however, that the cost of discharging was borne by the British Government.

(10) *Detention of vessels proceeding from European ports.*

The steamer *Ogeechee*, which left Bremen April 3 last for the United States, was detained at Sharpness and compelled to discharge its entire cargo, which consisted of approximately 200 shipments of goods urgently needed by American citizens. In most if not all cases it appears that ownership of these goods at the time of the seizure had passed to American consignees. In many instances American citizens had contracted for the sale of the goods consigned to them and were prevented from carrying out their contracts.

The release of shipments on the vessel has been allowed on the production of proofs of American ownership of the goods prior to March 11, 1915. American consignees in order to avoid loss have endeavored to comply with the requirements in the presentation of proofs.

The steamer *Neches*, which sailed from Rotterdam to the United States, was brought to London and compelled, in June last, to discharge cargo on the ground, apparently, that the goods originated partly in Belgium. The vessel was detained about a month and, after having been damaged to the extent of approximately £1,500 as a result of a collision with another vessel while under the control of the British Admiralty, and after having been involved in litigation growing out of such collision, was allowed to proceed.

The following is a list of the vessels detained prior to March 11 last, among which are some regarding the detention of which details have been briefly stated in this memorandum:

Platuria, Brindilla, John D. Rockefeller, Kroonland, Noorham, Rotterdam, Sandefjord, Thomas J. Fordney, Fram, Edward Pierce, Ellen, Tellus, Sif, Kim, Canton, Ogechee, Friedland, Gallileo, Uller, Verona, Zuiderdijk, Greenbrier, Herm, Arkansas, Ascot, Carolyn, Breiford, Bergensfjord, Bjornstjerne Bjornsen, Ida Cuneo, Kentucky, General Minnetonka, General Caloric, Denver.

Deacidified using the Bookkeeper process
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